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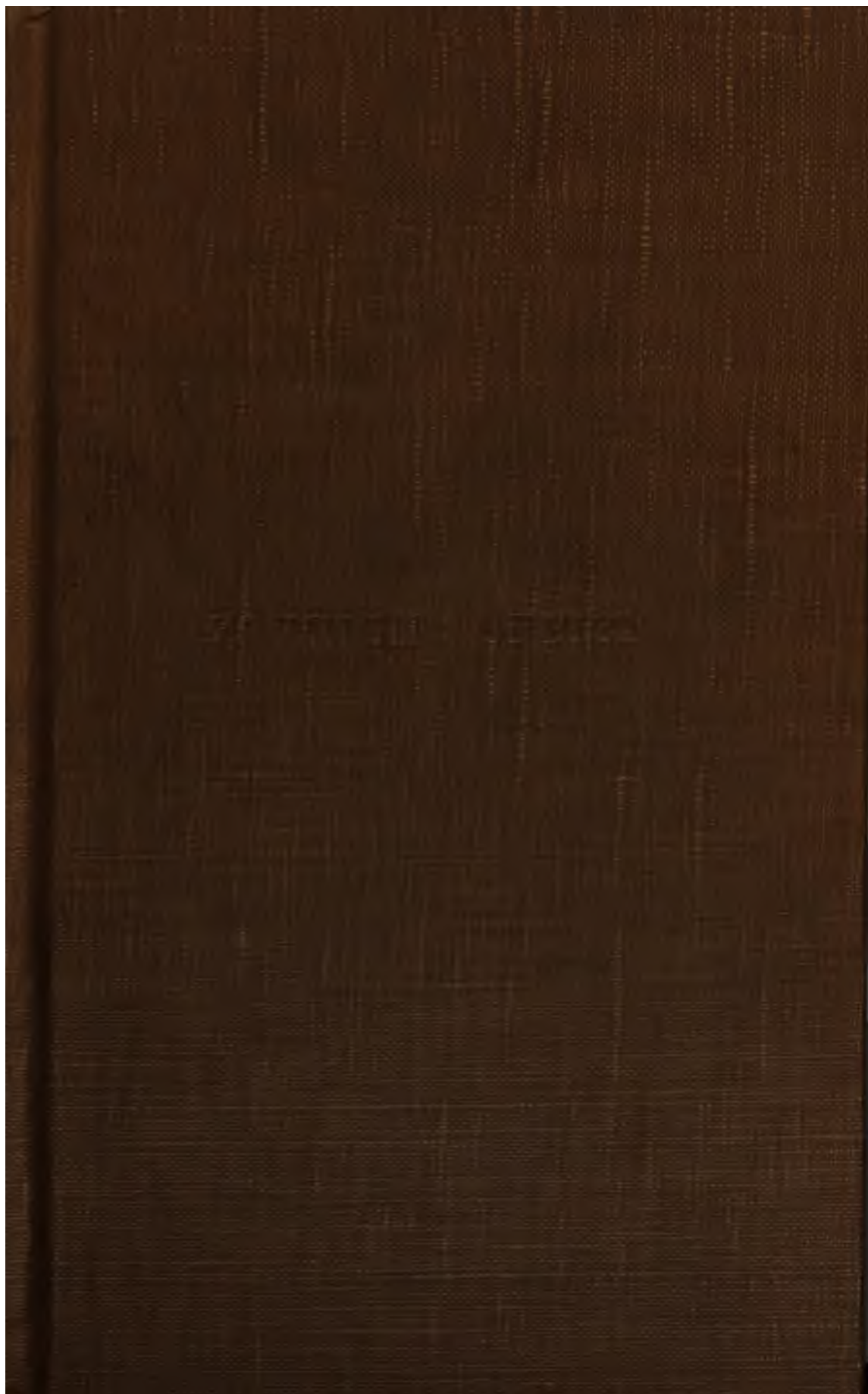
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THE
REVISED STATUTES
OF THE
STATE OF NEW-YORK,

PASSED DURING THE YEARS ONE THOUSAND EIGHT HUNDRED AND TWENTY-SEVEN,
AND ONE THOUSAND EIGHT HUNDRED AND TWENTY-EIGHT:

TO WHICH ARE ADDED,
CERTAIN FORMER ACTS WHICH HAVE NOT BEEN REVISED.

PRINTED AND PUBLISHED UNDER THE DIRECTION OF THE REVISERS,
APPOINTED FOR THAT PURPOSE.

IN THREE VOLUMES.



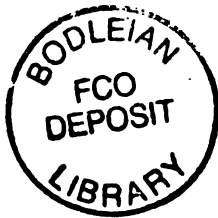
● **VOLUME I.**

CONTAINING THE ARTICLES OF CONFEDERATION; THE CONSTITUTIONS OF THE UNITED STATES, AND OF THIS STATE, WITH THE AMENDMENTS THERE TO; THE FIRST PART OF THE REVISED STATUTES, (EXCEPT A PORTION OF CHAPTER II.); AND THE FIRST, SECOND, THIRD AND FOURTH CHAPTERS OF THE SECOND PART.

ALBANY:

PRINTED BY PACKARD AND VAN BENTHUYSEN.

.....
1829.



Northern District of New-York, to wit :



Be it remembered, That on the thirty-first day of December, in the fifty-third year of the Independence of the United States of America, A. D. 1898, AZARIAH C. FLAGG, Secretary of State of the State of New-York, &c. of the said District, hath deposited in this Office the title of a Book, the right whereof he claims as proprietor, in trust for the benefit of the People of the State of New-York, &c. in the words following, to wit:

"The Revised Statutes of the State of New-York, passed during the years one thousand eight hundred and twenty-seven, and one thousand eight hundred and twenty-eight: to which are added, certain former acts which have not been revised. Printed and published under the direction of the Revisers, appointed for that purpose. In three volumes."

In conformity to the act of the Congress of the United States, entitled "An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the times therein mentioned;" and also to the act entitled, "An act supplementary to an act, entitled 'An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the times therein mentioned,' and extending the benefits thereof to the arts of designing, engraving and etching historical and other prints."

R. R. LANSING,
*Clerk of the Dist. Court of the United States
for the Northern Dist. of New-York.*

PREFACE.

THE volumes now presented to the public, will be found to comprise all the acts, now in force, passed by the Legislature of this state; except those of a merely private nature, those relating to cities, villages, and monied and other corporations, and some other special and local statutes.

The first and second volumes contain the REVISED STATUTES passed during the years 1827 and 1828, with the exception of three Titles of Chapter II. of the First Part. These Titles, comprising a description of the several counties, towns and cities in the state, will be found in the third volume, which will also contain various laws not revised, but chiefly local or special, and lists of all other statutes of every description, now in force, together with various other matters which will be indicated by the table of contents prefixed to the volume. An appendix will be added to that volume, consisting of a collection of colonial and other acts, which though obsolete or repealed, must be often referred to in the deduction of titles to real property, and which are now scattered in various editions of the laws that are not accessible to the public.

The public statutes of this state, in force at the time of this revision, constitute the basis of the work, and have generally been incorporated in it, although their original form has seldom been preserved. For the purpose of simplifying their language, supplying their omissions, and remedying other defects; and above all, of presenting them in the systematic arrangement which was the great object of the legislature, it became indispensable to break up their long and sometimes complicated sections—to separate those provisions which related to any particular topic, from others with which they were connected—and to write anew every section contained in the Revised Statutes.

Several of the former statutes having been expressly or impliedly abrogated by the legislature, are wholly omitted. Those which have been retained and consolidated in this work, have been materially modified. Their details have been perfected; they have been conformed in express terms, to the construction given to them by the decisions of our courts; and in many cases new provisions have been introduced, essentially changing their principles. In numerous instances, also, the rules of the common law have been reduced to a written text, and inserted

in their proper place in connexion with the statutory provisions on the subject to which they relate ; whilst in other instances those rules have been enlarged, modified or varied, the more fully to conform them to the nature of our government, and the habits and exigencies of the people.

It is also proper to apprise the reader, that he is not to expect in this work, all the law upon the subjects treated of in the Revised Statutes. The Titles and Articles enumerated in the Analysis prefixed to the first volume, may be said to exhibit an outline, nearly perfect, of the principal heads of the common as well as the statute law ; whilst the statutory provisions concerning many of them, form but a small portion of our law upon the given subject.

It will be perceived that various provisions of the constitutions of this state and of the United States, have been incorporated in the statutes relating to the same subjects. These constitutional provisions are uniformly inserted in a declaratory form.

Throughout the work, references will be found to the statutes heretofore passed, containing provisions analogous to those in the Revised Statutes. But it must not be inferred from any such reference, that the former statute has been literally copied, or even substantially adopted. On the contrary, whenever a provision on the same subject could be found in a former statute, it has been invariably referred to, for the purpose of enabling the reader to ascertain the prior law ; though in many cases that law is either only partially retained, or is wholly abrogated, or a principle directly the reverse is adopted, by the provision to which the reference is subjoined. In most cases a reference is added to each section, indicating the particular part of the former statute upon which the section is founded. But where a chapter, title, or article, or several sections, are founded upon a single act, that act, only, has sometimes been referred to, without designating its particular parts. With these exceptions, those sections of the Revised Statutes to which no references are subjoined, will generally be found to be entirely new as statutory provisions.

In making these references the following abbreviations have been used : 1 R. L. or 2 R. L. refer to the Revised Laws of 1813, published in two volumes, by the Revisers, Messrs. VAN NESS and WOODWORTH. The Session Laws of 1813, and of the subsequent sessions to 1828 inclusive, are referred to by the years in which they were passed ; and the references are in all cases to the editions published by the state printer.

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The work was prepared in detached parts, and was passed by two different legislatures. Hence a few provisions will be found in the earlier parts, sometimes apparently and sometimes really, incongruous with others contained in the parts last enacted; and expressions will sometimes be met with, referring to some rule of common or statute law, which is subsequently modified or abrogated. In some of these cases, the provisions first adopted, were left unaltered, for the purpose of protecting rights founded upon existing laws, or of continuing remedies and proceedings already commenced.

In the "act concerning the Revised Statutes," and in the "act to repeal certain acts and parts of acts," both passed on the 10th of December 1828, and published in the third volume, will be found important rules of construction controlling the whole revision, and applicable more particularly,

1. To the effect of certain terms used in the Revised Statutes :
2. To those provisions which may be repugnant : and,
3. To the cases where statutes not revised nor repealed, refer to a statute which has been repealed or revised, or to a rule of law which has been abrogated or modified.

To aid in understanding the plan and arrangement of the work, and to furnish easy and accurate references to its several parts, chapters, titles, articles and sections, the following means have been provided :

1. To the first volume is prefixed a general table of contents, in the form of a complete analysis of the Four Parts ; with references to those pages of the first volume, at which the chapters, titles and articles contained therein, severally commence :
2. To each chapter, is prefixed an analysis of its several titles :
3. To each title, is prefixed an analysis of its several articles :
4. At the head of each article, is placed a summary of the contents of each section ; and where a title is not divided into articles, the like summary is placed at the head of the title :
5. A brief note of the subject matter of each section, has been placed in the margin :
6. An Index is added to the first volume, presenting in alphabetical order, the several subjects treated of in the articles, titles and chapters contained in that volume. This Index will not give the contents of the several sections ; but as it will refer to the place, in the body of the work, where these contents are given, it is believed that the reader will thus be enabled, without difficulty, to turn to any provision contained in the volume :

7. The second volume commences with a table of contents, enumerating all the chapters, titles, and articles contained in that volume, with references to the pages at which they are to be found :

8. To the second volume is subjoined a copious and minute General Index to every provision contained in the two volumes.

It is here proper to state the following facts : The act of the 21st of April 1825 [continued by the acts of 1827, p. 252 and 1828 p. 434 § 8] authorised and directed a revision of the statutes upon the plan of the following work, and appointed JOHN DUER, BENJAMIN F. BUTLER and HENRY WHEATON to perform that duty. Mr. Wheaton being appointed, in the spring of 1827, *Chargé des affaires* of the United States, to the court of Denmark, resigned his place; and was succeeded by JOHN C. SPENCER, who was appointed on the 21st of April 1827, by DE WITT CLINTON, then Governor of this state. The board thus constituted continued in the commission until the completion of the work. The whole of the First Part, and all the chapters of the Second part, except the first, were passed at the meeting of the legislature which commenced on the 11th of September 1827. During the first meeting of the legislature of 1828, and the second meeting which began on the 9th of September in that year, the first chapter of the Second Part, and the Third and Fourth Parts, were reported and passed. In consequence of the professional and other engagements of Mr. Duer, the Third and Fourth Parts as presented to the legislature, were prepared by the remaining members of the board, assisted only by the occasional advice of their colleague. They also prepared the marginal notes, references, indexes, &c., and superintended the printing and publishing of the volumes.

Although the draughts of the Revised Statutes were prepared by the Revisers, it is due to truth and justice to remark, that in the course of enactment, many alterations were made. Some of these were proposed by the joint committees to whom the several chapters were referred, and others were suggested by individual members of the legislature, who brought to the task the various and practical knowledge so essential to the perfection of the work; and who, with unwearied diligence, devoted their time and labour to its completion. In connexion with this topic, it is hoped that it will not be deemed out of place, here to reiterate the acknowledgment made by the Revisers, in their last general report, of "their grateful sense of the manner in which the various propositions submitted by them, in the discharge of their arduous and responsible duties, had been received and considered by the respective houses:" and the avowal "that they would have sunk under the weight

of responsibility attached to a work so novel in character and so vast in importance, had they not been sustained and cheered by the ready co-operation of the legislature; and had they not felt a confident security in the intelligence and discretion of those, who were finally to pass on the result of their labors."

JOHN DUER,
B. F. BUTLER,
JOHN C. SPENCER.

Albany, January 1829.

NOTE.

By the "act concerning the Revised Statutes," passed December 10th, 1828, such of those statutes as were not then in force, are severally to commence and take effect as laws, on the **FIRST DAY OF JANUARY, 1830.**

By the "act concerning the Revised Statutes, passed at the present meeting of the Legislature," passed on the 4th of December, 1827, the following Chapters and parts of Chapters of the First Part of the Revised Statutes, as originally passed, commenced and took effect on the first day of January, 1828, viz :

1. Chapter VI. entitled "Of elections, other than for militia and town officers :"

2. Chapter VIII. entitled "Of the duties of the executive officers of the state, and of various matters connected with their respective departments :"

3. Chapter IX. entitled "Of the funds, revenue, expenditures and property of the state, and the administration thereof," except § 186 of the ninth Title thereof, originally passed as § 181, which section took effect on the first day of January, 1829; but the forfeiture therein mentioned, does not take effect until six months thereafter :

4. Chapter X. entitled "Of the militia and the public defence :"

5. Chapter XIII. entitled "Of the assessment and collection of taxes :"

6. Chapter XIV. entitled "Of the public health :

7. The second Title of Chapter XV. entitled "Of public instruction," which Title relates to the common schools :

8. Chapter XVI. entitled "Of highways, bridges and ferries :"

9. Chapter XVIII. entitled "Of incorporations."

Chap. XVII. of the First Part, entitled "Of the regulation of trade in certain cases," as the same was originally passed, commenced and took effect on the first day of May, 1828.

Various additions and alterations, in the Chapters above enumerated, were made by subsequent acts of the Legislature, and are particularly noted in the body of the work. These took effect at the several times when the acts directing them, were passed.

Pursuant to the "act concerning the Revised Statutes," passed on the 10th of December, 1828, We, the undersigned, two of the Revisers of the Statutes of the state of New-York, do hereby certify, that the text of the Revised Statutes contained in this volume, has been examined and compared by us with the original acts passed by the Legislature, and with the acts amending such originals ; and that this volume was printed by the printers employed by us for that purpose, under the authority conferred by law.

B. F. BUTLER,
JOHN C. SPENCER.

January 31, 1829.

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ANALYSIS

Of the several Acts, Chapters, Titles and Articles, embraced in the Revised Statutes.

THE REVISED STATUTES consist of **FOUR PARTS**, which are denominated **ACTS**.

The **FIRST PART** of the Revised Statutes is entitled "An Act concerning the Territorial Limits and Divisions, the Civil Polity, and the Internal Administration of this State;" and consists of **TWENTY CHAPTERS**, with the following Titles :

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Title 2. Of the place and manner in which property is to be assessed: Containing *three Articles*.

Art. 1. Of the place in which property is to be assessed, 389.

Art. 2. Of the manner in which assessments are to be made, and the duties of the assessors, 390.

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Title 3. Of the collection of taxes, the disposition to be made of the monies collected, and the proceedings in relation to unpaid taxes: Containing *three Articles*.

Art. 1. Of the manner in which taxes are to be collected, and the duties of the collector, 397.

Art. 2. Of the payments and returns to be made by the county treasurers, and the duty of the comptroller, and other officers thereupon, 402.

Art. 3. Of sales for unpaid taxes, and the conveyance and redemption of lands sold, 407.

Title 4. Regulations concerning the assessment of taxes on incorporated companies, and the commutation or collection thereof, 414.

Title 5. Miscellaneous provisions of a general nature, 418.

Title 6. Special and local provisions, 421.

CHAP. XIV. OF THE PUBLIC HEALTH. Containing seven Titles.

Title 1. Of the officers of health in the city of New-York, 422.

Title 2. Of quarantine, and regulations in the nature of quarantine, at the port of New-York: Containing *six Articles*.

Art. 1. Of the place of quarantine, and the vessels and persons subject thereto, 425.

Art. 2. Of the duties of pilots in relation to vessels subject to quarantine, 427.

Art. 3. Regulations concerning the treatment, conduct and duties of vessels, articles and persons under quarantine, 428.

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Title 3. Internal regulations for the preservation of the public health in the city of New-York: Containing *three Articles*.

Art. 1. Of certain duties and powers of the board of health, the mayor and commissioners of health, 440.

Art. 2. Of the duties of physicians and other persons, 441.

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Title 4. Of the marine hospital and its funds, 444.

Title 5. General provisions applicable to the city of New-York, 446.

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CHAP. XV. OF PUBLIC INSTRUCTION: Containing five Titles.

Title 1. Of the university of this state, and of the foundation and government of colleges, academies, and select schools: Containing *six Articles*.

Art. 1. Of the organization and powers of the board of regents, 456.

Art. 2. Of the powers and duties of the trustees of colleges, 460.

Art. 3. Of the foundation of academies, 461.

Art. 4. Of the powers and duties of trustees of academies, 462.

Art. 5. General provisions applicable to colleges and academies, 463.

Art. 6. Of the foundation and government of Lancasterian or select schools, 464.

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Art. 2. Of the distribution of the common school fund, 468.

Art. 3. Of the powers and duties of the commissioners of common schools, 470.

Art. 4. Of the inspectors of common schools, 475.

Art. 5. Of the formation of school districts, and of the choice, duties and powers of their officers, 476.

Art. 6. Of certain duties of the county clerk, 487.

Art. 7. Local regulations respecting common schools, 493.

- Title 3. Of the duties of the superintendent of common schools, in relation to the instruction of the deaf and dumb, 497.
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- CHAP. XVI. OF HIGHWAYS, BRIDGES AND FERRIES:** Containing two Titles.
- Title 1. Of highways and bridges: Containing seven Articles.
- Art. 1. Of the officers entrusted with the care and superintendence of highways and bridges; and their general powers and duties, 501.
- Art. 2. Of the persons liable to work on highways, and the making of assessments therefor, 505.
- Art. 3. Of the duties of overseers in regard to the performance of labor upon highways, and of the performance of such labor, or the commutation therefor, 508.
- Art. 4. Of the laying out of public and private roads, and of the alteration or discontinuance thereof, 512.
- Art. 5. Regulations and penalties concerning the obstruction of highways, and encroachments thereon, 521.
- Art. 6. Of the erection, repairing and preservation of bridges, 524.
- Art. 7. Miscellaneous provisions of a general nature, 525.
- Title 2. Of the regulation of ferries, 526.
- CHAP. XVII. OF THE REGULATION OF TRADE IN CERTAIN CASES:** Containing four Titles.
- Title 1. Of sales by auctioneers, 528.
- Title 2. Of the inspection of provisions, produce and merchandize: Containing thirteen Articles.
- Art. 1. Of the inspection of flour and meal, 536.
- Art. 2. Of the inspection of beef and pork, 541.
- Art. 3. Of the inspection of pot and pearl ashes, 546.
- Art. 4. Of the inspection of fish, 551.
- Art. 5. Of the inspection of fish or liver oil, 554.
- Art. 6. Of the inspection of lumber, 555.
- Art. 7. Of the inspection and culling of staves and heading, 558.
- Art. 8. Of the inspection of flax-seed, 562.
- Art. 9. Of the inspection of sole leather, 564.
- Art. 10. Of the inspection of hops, 565.
- Art. 11. Of the inspection of distilled spirits, 567.
- Art. 12. Of the inspection of leaf tobacco, in the city of New-York, 568.
- Art. 13. General provisions, 570.
- Title 3. Of the tare of butter firkins; and the packing and sale of pressed hay, 573.
- Title 4. Of hawkers and peddlers, 575.
- CHAP. XVIII. OF INCORPORATIONS:** Containing four Titles.
- Title 1. Of turnpike corporations: Containing four Articles.
- Art. 1. Of the mode of incorporating turnpike companies, and of the choice and powers of the directors, 577.
- Art. 2. Of the construction of the road, and of the appraisement of damages, 580.
- Art. 3. Of tolls and their collection, 584.
- Art. 4. General provisions embracing corporations now existing, 585.
- Title 2. Of monied corporations: Containing three Articles.
- Art. 1. Regulations to prevent the insolvency of monied corporations, and to secure the rights of their creditors and stockholders, 589.
- Art. 2. Regulations concerning the election of directors in monied corporations, 595.
- Art. 3. Of the construction of this Title, 598.
- Title 3. Of the general powers, privileges and liabilities of corporations, 599.
- Title 4. Special provisions relating to certain corporations, 601.
- CHAP. XIX. OF THE COMPUTATION OF TIME, OF WEIGHTS AND MEASURES, AND THE MONEY OF ACCOUNT:** Containing three Titles.
- Title 1. Of the computation of time, 606.
- Title 2. Of weights and measures, 606.
- Title 3. Of the money of account, 611.
- CHAP. XX. OF THE INTERNAL POLICE OF THIS STATE:** Containing twenty-one Titles.
- Title 1. Of the relief and support of indigent persons, 613.
- Title 2. Of beggars and vagrants, 632.
- Title 3. Of the safe keeping and care of lunatics, 633.
- Title 4. Of the care of habitual drunkards, 636.
- Title 5. Of disorderly persons, 639.
- Title 6. Of the support of bastards, 640.
- Title 7. Of the importation into this state of persons held in slavery, of their exportation, of their services, and prohibiting their sale, 656.
- Title 8. Of the prevention and punishment of immorality, and disorderly practices: Containing nine Articles.
- Art. 1. Of jugglers, and the exhibition of shows, &c. 660.
- Art. 2. Of disorderly practices on public occasions and holidays, and in taverns, vessels and canal boats, 660.
- Art. 3. Of betting and gaming, 661.
- Art. 4. Of raffling and lotteries, 664.
- Art. 5. Of the racing of animals, 672.
- Art. 6. Of profane cursing and swearing, 673.
- Art. 7. Of the disturbance of religious meetings, 674.
- Art. 8. Of the observance of Sunday, 675.
- Art. 9. General provisions to enforce the prohibitions of the three last Articles, 676.
- Title 9. Of excise, and the regulation of taverns and groceries, 677.
- Title 10. Of the navigation of rivers and lakes, and the obstruction of certain waters, 683.
- Title 11. Of fisheries generally, and particularly in Hudson river; and at and below the city of New-York, 687.
- Title 12. Of wrecks, 690.
- Title 13. Of the law of the road, and the regulation of public stages, 695.
- Title 14. Of the firing of woods, 696.

- Title 15. Of the embezzlement of timber floating, 697.
- Title 16. Of the preservation of deer, and certain game and animals, 701.
- Title 17. Of dogs, 703.
- Title 18. Of the destruction of wolves and other noxious animals, 706.
- Title 19. Of brokerage, stock-jobbing and pawnbrokers: Containing *three Articles*.
 Art. 1. Regulations concerning brokers, 709.
 Art. 2. Of stock-jobbing, 710.
 Art. 3. Of pawnbrokers, 710.
- Title 20. Of unauthorised banking, and the circulation of certain notes or evidences of debt issued by banks, 711.
- Title 21. Of insurances on property in this state, made in foreign countries, and by individuals and associations unauthorised by law, 714.

The SECOND PART of the Revised Statutes is entitled "An Act concerning the Acquisition, the Enjoyment and the Transmission of real and personal Property, the Domestic Relations, and other Matters connected with Private Rights;" and consists of EIGHT CHAPTERS.

CHAP. I. OF REAL PROPERTY, AND OF THE NATURE, QUALITIES AND ALIENATION OF ESTATES THEREIN: Containing five Titles.

Title 1. Of the tenure of real property, and the persons capable of holding and conveying estates therein: Containing *two Articles*.

- Art. 1. Of the tenure of real property, 718.
 Art. 2. Of the persons capable of holding and conveying lands, 719.

Title 2. Of the nature and qualities of estates in real property, and the alienation thereof: Containing *four Articles*.

- Art. 1. Of the creation and division of estates, 721.
 Art. 2. Of uses and trusts, 727.
 Art. 3. Of powers, 731.
 Art. 4. Of alienation by deed, 738.

Title 3. Of estates in dower, 740.

Title 4. Of estates for years and at will; and the rights and duties of landlords and tenants, 743.

Title 5. Miscellaneous provisions of a general nature, 748.

CHAP. II. OF TITLE TO REAL PROPERTY BY DESCENT, 750.

CHAP. III. OF THE PROOF AND RECORDING OF CONVEYANCES OF REAL ESTATE, AND THE CANCELLING OF MORTGAGES, 755.

CHAP. IV. OF TITLE TO PERSONAL PROPERTY IN CERTAIN CASES: Containing four Titles.

- Title 1. Of limited partnerships, 763.
 Title 2. Of promissory notes and bills of exchange, 767.
 Title 3. Of the interest of money, 771.

Title 4. Of accumulations of personal property, and of expectant estates in such property, 773.*

CHAP. V. OF TITLE TO PROPERTY, REAL AND PERSONAL, TRANSMITTED OR ACQUIRED BY SPECIAL PROVISIONS OF LAW: Containing two Titles.

Title 1. Of the assignment of the estates of non-resident, absconding, insolvent or imprisoned debtors: Containing *eight Articles*.

- Art. 1. Of attachments against absconding, concealed and non-resident debtors.
 Art. 2. Of attachments against debtors confined for crimes.
 Art. 3. Of voluntary assignments, made pursuant to the application of an insolvent and his creditors.

Art. 4. Of proceedings by creditors, to compel assignments by debtors imprisoned on execution in civil causes.

Art. 5. Of voluntary assignments by an insolvent, for the purpose of exonerating his person from imprisonment.

Art. 6. Of voluntary assignments by a debtor imprisoned on execution in civil causes.

Art. 7. General provisions applicable to proceedings under the several preceding Articles, or some of them.

Art. 8. Of the powers, duties and obligations of trustees and assignees under this Title.

Title 2. Of the custody and disposition of the estates of idiots, lunatics, persons of unsound mind, and drunkards.

CHAP. VI. OF WILLS AND TESTAMENTS; OF THE DISTRIBUTION OF THE ESTATES OF INTESTATES; AND OF THE RIGHTS, POWERS AND DUTIES OF EXECUTORS AND ADMINISTRATORS: Containing six Titles.

Title 1. Of wills and testaments of real and personal property, and the proof of them: Containing *three Articles*.

- Art. 1. Of wills of real property, and the proof of them.
 Art. 2. Of wills of personal property, and the probate of them.
 Art. 3. General provisions applicable to wills of real and personal property.

Title 2. Of granting letters testamentary and of administration: Containing *three Articles*.

- Art. 1. Of granting letters testamentary.
 Art. 2. Of granting letters of administration with the will annexed, and in cases of intestacy.

Art. 3. General provisions relating to letters testamentary and of administration; miscellaneous provisions respecting the duties of surrogates, and the recording of wills and letters.

Title 3. Of the duties of executors and administrators, in taking and returning inventories, in the payment of debts and legacies, in accounting, and in making distribution to next of kin: Containing *three Articles*.

- Art. 1. Of their duties in taking and returning inventories.
 Art. 2. Of the duties of executors and administrators, in the payment of debts and legacies.

*The remaining Chapters of the Second Part, and the whole of the Third and Fourth Parts, will be found in Vol. II.

Art. 3. Of the duties of executors and administrators, in rendering an account, and in making distribution to the next of kin.

Title 4. Of the powers and duties of executors and administrators, in relation to the sale and disposition of the real estate of their testator or intestate.

Title 5. Of the rights and liabilities of executors and administrators.

Title 6. Of public administrators: Containing *two Articles*.

Art. 1. Of the public administrator in the city of New-York.

Art. 2. Of public administrators in the several counties of this state, other than the county of New-York.

CHAP. VII. OF FRAUDULENT CONVEYANCES AND CONTRACTS RELATIVE TO REAL AND PERSONAL PROPERTY: Containing three Titles.

Title 1. Of fraudulent conveyances and contracts relative to lands.

Title 2. Of fraudulent conveyances and contracts relative to goods, chattels and things in action.

Title 3. General provisions.

CHAP. VIII. OF THE DOMESTIC RELATIONS: Containing four Titles.

Title 1. Of husband and wife: Containing *five Articles*.

Art. 1. Of marriage, and of the solemnization and proof thereof.

Art. 2. Of divorces, on the ground of the nullity of the marriage contract.

Art. 3. Of divorces dissolving the marriage contract.

Art. 4. Of separations, or limited divorces.

Art. 5. General provisions applicable to the two last Articles.

Title 2. Of parents and children.

Title 3. Of guardians and wards.

Title 4. Of masters, apprentices and servants: Containing *three Articles*.

Art. 1. Of apprentices and servants bound by indentures.

Art. 2. Of persons held in service.

Art. 3. General provisions.

The THIRD PART of the Revised Statutes is entitled "An act concerning courts and ministers of justice, and proceedings in civil cases;" and consists of TEN CHAPTERS.

CHAP. I. OF THE COURTS OF GENERAL OR LIMITED JURISDICTION: Containing six Titles.

Title 1. Of the court for the trial of impeachments and the correction of errors: Containing *three Articles*.

Art. 1. Of the constitution of the court and its officers.

Art. 2. Of impeachments, and the mode of conducting them.

Art. 3. Of its powers as a court for the correction of errors.

Title 2. Of the court of chancery: Containing *seven Articles*.

Art. 1. Of the constitution of the court; and of its officers, and their duties.

Art. 2. Of the general powers, duties and jurisdiction of the court.

Art. 3. Of the terms of the court, and the mode of proceeding therein.

Art. 4. Of proceedings against absent, concealed and non-resident defendants.

Art. 5. Of the granting of injunctions to stay proceedings at law.

Art. 6. Of the powers and proceedings of the court, upon bills for the foreclosure or satisfaction of mortgages.

Art. 7. Of proceedings in relation to the conveyance of lands by infants, and the sale and disposition of their estates.

Title 3. Of the supreme court.

Title 4. Of the circuit courts, sittings and courts of oyer and terminer.

Title 5. Of the courts of common pleas and general sessions of the peace, in the several counties of this state.

Title 6. Of mayors' courts in cities.

CHAP. II. OF COURTS OF PECULIAR AND SPECIAL JURISDICTION: Containing four Titles.

Title 1. Of surrogates' courts.

Title 2. Of the courts of special sessions of the peace.

Title 3. Of special justices' courts in the several cities of this state.

Title 4. Of courts held by justices of the peace: Containing *thirteen Articles*.

Art. 1. Of the jurisdiction of justices' courts.

Art. 2. Of the commencement of suits, and the service and return of process.

Art. 3. Of the appearance of parties.

Art. 4. Of pleadings and of set-offs.

Art. 5. Of adjournments.

Art. 6. Of compelling the attendance of witnesses.

Art. 7. Of the trial of issues of fact, and the incidents thereto.

Art. 8. Of judgments, and filing transcripts thereof.

Art. 9. Of executions, of sales thereon; and of imprisonment.

Art. 10. Of the removal of causes to the court of common pleas by certiorari.

Art. 11. Of appeals to the courts of common pleas.

Art. 12. Of the fees of officers, and of witnesses and jurors, for services under this Title.

Art. 13. General provisions concerning justices' courts, and proceedings therein.

CHAP. III. GENERAL PROVISIONS CONCERNING COURTS OF JUSTICE, AND THE POWERS AND DUTIES OF CERTAIN JUDICIAL OFFICERS: Containing two Titles.

Title 1. General provisions concerning the courts of justice specified in the two preceding Chapters.

- Title 2.** General provisions concerning courts of record, and the powers and duties of certain judicial officers: Containing *four Articles*.
- Art. 1.** Provisions concerning courts of record, their process and proceedings.
- Art. 2.** Of the powers and duties of certain judicial officers.
- Art. 3.** Of the officers of courts of record, their duties, privileges and liabilities.
- Art. 4.** Miscellaneous provisions concerning courts of record.
- CHAP. IV. OF ACTIONS, AND THE TIMES OF COMMENCING THEM:** Containing two Titles.
- Title 1.** Of actions, and their general divisions.
- Title 2.** Of the time of commencing actions: Containing *six Articles*.
- Art. 1.** Of the time of commencing actions relating to real property.
- Art. 2.** Of the time of commencing actions for the recovery of any debt or demand, or for damages only.
- Art. 3.** Of the time of commencing actions for penalties and forfeitures.
- Art. 4.** General provisions concerning the commencement of suits, and the persons and cases excepted from the operation of the preceding Articles of this Title.
- Art. 5.** Of the presumption of payment arising from the lapse of time.
- Art. 6.** Of the time of commencing suits in courts of equity.
- CHAP. V. OF SUITS RELATING TO REAL PROPERTY:** Containing eight Titles.
- Title 1.** Of the action of ejectment.
- Title 2.** Proceedings to compel the determination of claims to real property, in certain cases.
- Title 3.** Of the partition of lands owned by several persons.
- Title 4.** Of the writ of nuisance.
- Title 5.** Of waste.
- Title 6.** Of trespass on lands.
- Title 7.** General provisions concerning actions relating to real property.
- Title 8.** Proceedings to discover the death of persons upon whose lives any particular estates may depend.
- CHAP. VI. OF PROCEEDINGS IN PERSONAL ACTIONS, BROUGHT FOR THE RECOVERY OF ANY DEBT, OR FOR DAMAGES ONLY:** Containing six Titles.
- Title 1.** Of the commencement of suits, and the proceedings therein, until the forming of an issue of fact.
- Title 2.** Of pleadings and set-offs.
- Title 3.** Of the assessment of damages upon default.
- Title 4.** Of judgments: Containing *two Articles*.
- Art. 1.** General provisions concerning judgments.
- Art. 2.** Of docketing judgments, their priority, and the mode of cancelling and discharging them.
- Title 5.** Of executions, and the duties of officers thereon: Containing *four Articles*.
- Art. 1.** General provisions.
- Art. 2.** Of executions against property.
- Art. 3.** Of remedies for failure of title to real estate sold by execution, and to enforce contribution between several owners of lands subject to the same judgment.
- Art. 4.** Executions against the person.
- Title 6.** Provisions concerning certain proceedings in the progress of an action at law: Containing *four Articles*.
- Art. 1.** Of proceedings against joint debtors.
- Art. 2.** Of proceedings on bonds for the performance of covenants.
- Art. 3.** Of bail, and proceedings to charge and exonerate them.
- Art. 4.** Of consolidating and referring causes.
- CHAP. VII. MISCELLANEOUS PROVISIONS OF A GENERAL NATURE, APPLICABLE TO PROCEEDINGS IN CIVIL CAUSES:** Containing six Titles.
- Title 1.** Of the abatement of suits by death, marriage, or otherwise, and of their revival.
- Title 2.** Of the removal of causes before trial or judgment, from inferior courts.
- Title 3.** Of evidence: Containing *nine Articles*.
- Art. 1.** Of taking, conditionally, the testimony of witnesses within this state.
- Art. 2.** Of taking the testimony of witnesses out of this state.
- Art. 3.** Of affidavits taken, and other judicial proceedings had, in other states and foreign countries.
- Art. 4.** Of depositions taken in this state, to be used in courts of other states and countries.
- Art. 5.** Of proceedings to perpetuate testimony.
- Art. 6.** Of witnesses, their privileges, and compelling their attendance.
- Art. 7.** Of documentary evidence, and the preservation thereof.
- Art. 8.** Of the examination of witnesses, of certain rules of evidence, and of evidence in certain cases.
- Art. 9.** Of the administration of oaths and affirmations.
- Title 4.** Of the trial of issues of fact: Containing *four Articles*.
- Art. 1.** General provisions concerning trials, and the proceedings preparatory thereto.
- Art. 2.** Of the return and summoning of jurors.
- Art. 3.** Of special juries.
- Art. 4.** Of trial and its incidents.
- Title 5.** Of amending pleadings and proceedings.
- Title 6.** Of the powers and duties of sheriffs, coroners and other officers, in the arrest and imprisonment of persons in civil actions; in the return and execution of process; and in certain other cases: Containing *nine Articles*.
- Art. 1.** Of the arrest of persons on civil process.
- Art. 2.** Of the imprisonment of persons arrested on civil process.

Art. 3. Of the liberties of jails, and admitting prisoners thereto.

Art. 4. Of escapes, and the liabilities of sheriffs therefor.

Art. 5. Proceedings on the election or appointment of a new sheriff.

Art. 6. Of the duties of sheriffs, in the execution and return of process.

Art. 7. Proceedings in case of resistance to the execution of process.

Art. 8. Provisions concerning the duties of coroners in executing civil process, in cases where sheriffs are parties.

Art. 9. Provisions concerning persons committed under the authority of courts of the United States, to jails within this state.

CHAP. VIII. OF PROCEEDINGS IN SPECIAL CASES: Containing seventeen Titles.

Title 1. Of the bringing and maintaining of suits by poor persons.

Title 2. Proceedings by and against infants.

Title 3. Of suits by and against executors and administrators: and against heirs, devisees and legatees: Containing *two Articles*.

Art. 1. Of suits by and against executors and administrators.

Art. 2. Of suits by and against legatees; and against next of kin, heirs and devisees; and between heirs and devisees.

Title 4. Of proceedings by and against corporations, and public bodies having certain corporate powers, and by and against officers representing them: Containing *four Articles*.

Art. 1. Of proceedings by and against corporations, in courts of law.

Art. 2. Of proceedings against corporations, in equity.

Art. 3. Of the voluntary dissolution of corporations.

Art. 4. Of proceedings by and against public bodies having certain corporate powers, and by and against the officers representing them.

Title 5. Of suits against sheriffs, surrogates and other officers, on their official bonds.

Title 6. Of actions for penalties and forfeitures; and provisions for the collection and remission of forfeited recognizances and fines imposed by courts: Containing *two Articles*.

Art. 1. Of actions for penalties and forfeitures.

Art. 2. Provisions respecting the collection and remission of fines imposed by courts, and of forfeited recognizances.

Title 7. Of proceedings for the admeasurement of dower.

Title 8. Of proceedings for the collection of bonds against ships and vessels.

Title 9. Of proceedings for the recovery of rent, and of demised premises: Containing *two Articles*.

Art. 1. Of distress for rent.

Art. 2. Of the recovery of possession of demised premises, for non-payment of rent, by ejectment.

Title 10. Summary proceedings to recover the possession of land in certain cases: Containing *two Articles*.

Art. 1. Of forcible entries and detainers.

Art. 2. Of summary proceedings to recover the possession of land in other cases.

Title 11. Of distraining cattle and other chattels doing damage, and of distraining in other cases.

Title 12. Of the action of replevin.

Title 13. Of proceedings as for contempts, to enforce civil remedies, and to protect the rights of parties in civil actions.

Title 14. Of arbitrations.

Title 15. Of the foreclosure of mortgages by advertisement.

Title 16. Of proceedings for the draining of swamps, marshes and other low lands.

Title 17. General miscellaneous provisions, concerning suits and proceedings in civil cases.

CHAP. IX. OF THE WRIT OF HABEAS CORPUS; OF WRITS OF ERROR, APPEALS, INFORMATIONS, AND PROCEEDINGS COMMENCED BY ANY SPECIAL WRIT: Containing three Titles.

Title 1. Of the writs of habeas corpus and certiorari, in certain cases: Containing *three Articles*.

Art. 1. Of the writ of habeas corpus, to bring up a person to testify, or to answer in certain cases.

Art. 2. Of the writs of habeas corpus and certiorari, when issued to inquire into the cause of detention.

Art. 3. General provisions.

Title 2. Of proceedings by scire facias, by information in certain cases, mandamus, prohibition, and ad quod damnum: Containing *four Articles*.

Art. 1. Of scire facias.

Art. 2. Of informations in the nature of a quo warranto, and in certain other cases.

Art. 3. Of writs of mandamus and prohibition.

Art. 4. Of the writ of ad quod damnum.

Title 3. Of writs of error, and appeals: Containing *three Articles*.

Art. 1. Of writs of error.

Art. 2. Of writs of certiorari and of error, in special cases.

Art. 3. Of appeals from the court of chancery, and surrogate's courts; and from circuit judges and courts of common pleas, in certain cases.

CHAP. X. OF COSTS, AND THE FEES OF OFFICERS: Containing five Titles.

Title 1. Of the cases in which costs may be recovered, and in which double costs may be allowed.

Title 2. Of security for the payment of costs.

Title 3. Of the fees of certain officers.

Title 4. General provisions concerning the fees of officers and persons, to whom any allowance is made for services.

Title 5. Of the taxation of costs.

The **FOURTH PART** of the Revised Statutes is entitled "An act concerning crimes and punishments; proceedings in criminal cases, and prison discipline;" and consists of **THREE CHAPTERS**.

CHAP. I. OF CRIMES, AND THEIR PUNISHMENT: Containing seven Titles.

Title 1. Of crimes punishable with death.

Title 2. Of offences against the person, punishable by imprisonment in a state prison: Containing *two Articles*.

Art. 1. Of manslaughter,

Art. 2. Of rape, maiming, kidnapping and other offences against the person, not herein before enumerated.

Title 3. Of offences against property, punishable by imprisonment in a state prison: Containing *five Articles*.

Art. 1. Of arson.

Art. 2. Of burglary.

Art. 3. Of forgery.

Art. 4. Of false personating another, and of cheats.

Art. 5. Of robbery, embezzlement and larceny.

Title 4. Of offences affecting the administration of justice, punishable by imprisonment in a state prison: Containing *three Articles*.

Art. 1. Of perjury and subornation of perjury.

Art. 2. Of bribery, and of corrupting jurors and others.

Art. 3. Of escapes from prisons and assisting therein.

Title 5. Of offences against the public peace and public morals, and other miscellaneous offences, punishable by imprisonment in a state prison: Containing *three Articles*.

Art. 1. Of duelling and challenges to fight.

Art. 2. Of unlawful marriages and of incest.

Art. 3. Of offences against public decency; of malicious mischief, and of other crimes not before enumerated.

Title 6. Of offences punishable by imprisonment in a county jail, and by fines.

Title 7. General provisions concerning crimes and their punishment.

CHAP. II. OF PROCEEDINGS IN CRIMINAL CASES: Containing eight Titles.

Title 1. Of proceedings to prevent the commission of crimes.

Title 2. Of the arrest and examination of offenders, their commitment for trial, and letting them to bail.

Title 3. Of trials for offences, before courts of special sessions of the peace: Containing *four Articles*.

Art. 1. Of trials before courts of special sessions, held in any county of this state, except the city and county of New-York.

Art. 2. Of trials before courts of special sessions in the city and county of New-York.

Art. 3. General provisions concerning courts of special sessions.

Art. 4. Of certioraris to courts of special sessions.

Title 4. Of indictments, and proceedings before trial: Containing *three Articles*.

Art. 1. Of the return and summoning of grand juries, their powers and duties.

Art. 2. Of indictments and proceedings thereon.

Art. 3. Of the removal of indictments before trial or judgment.

Title 5. Of trials for offences; bills of exception and other proceedings incident to trial.

Title 6. Of judgments, the mode of enforcing them, and of writs of error thereon: Containing *two Articles*.

Art. 1. Of judgments; the evidence thereof, and the mode of enforcing them.

Art. 2. Of writs of error on judgments; and certioraris in criminal cases.

Title 7. Special proceedings in criminal cases, and miscellaneous provisions respecting criminal proceedings: Containing *three Articles*.

Art. 1. Of coroners' inquests.

Art. 2. Of the outlawry of persons convicted of treason.

Art. 3. Miscellaneous provisions respecting criminal proceedings.

Title 8. Of the fees of officers and ministers of justice in criminal cases.

CHAP. III. OF JAILS, PENITENTIARIES AND PRISONS, AND THE GOVERNMENT AND DISCIPLINE THEREOF: Containing three Titles.

Title 1. Of the county prisons: Containing *two Articles*.

Art. 1. Designation of the several county prisons, and provisions concerning their management.

Art. 2. Of the inspection of county prisons, and the discharge and delivery of prisoners confined therein.

Title 2. Of the state prisons: Containing *four Articles*.

Art. 1. Of the custody and government of the state prisons; the officers connected therewith, and their general powers, duties and compensation.

Art. 2. Regulations concerning the treatment and conduct of prisoners, and the discipline of the prison.

Art. 3. Miscellaneous provisions.

Art. 4. Special provisions applicable to the state prison at Auburn.

Title 3. General provisions applicable to all the prisons treated of in this Chapter.

ARTICLES OF CONFEDERATION, &c.



TO ALL TO WHOM THESE PRESENTS SHALL COME,

We, the undersigned, delegates of the states affixed to our names, send greeting :

WHEREAS, the delegates of the United States of America in congress assembled did, on the fifteenth day of November, in the year of our Lord one thousand seven hundred and seventy-seven, and in the second year of the independence of America, agree to certain articles of confederation and perpetual union between the states of New-Hampshire, Massachusetts Bay, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia, in the words following, viz.:

Articles of confederation and perpetual union between the states of New-Hampshire, Massachusetts Bay, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia.

ARTICLE 1. The style of this confederacy shall be, "The United States of America." Style of the confederacy.

ART. 2. Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the United States in congress assembled. Rights retained by the states.

ART. 3. The said states hereby severally enter into a firm league of friendship with each other for their common defence, the security of their liberties, and their mutual and general welfare ; binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever. Objects of the confederacy.

ART. 4. The better to secure and perpetuate mutual friendship and intercourse among the people of the different states in this union, the free inhabitants of each of these states, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several states ; and the people of each state shall have free ingress and regress to and from any other

state, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions, as the inhabitants thereof respectively, provided that such restrictions shall not extend so far as to prevent the removal of property imported into any state to any other state, of which the owner is an inhabitant; provided also, that no imposition, duties, or restriction, shall be laid by any state on the property of the United States or either of them.

Persons guilty of crimes to be given up.

If any person guilty of or charged with treason, felony, or other high misdemeanor, in any state, shall flee from justice, and be found in any of the United States, he shall, upon demand of the governor or executive power of the state from which he fled, be delivered up, and removed to the state having jurisdiction of his offence.

Faith to be given to the acts of each state.

Full faith and credit shall be given in each of these states to the records, acts, and judicial proceedings of the courts and magistrates of every other state.

Delegates to be annually appointed, &c.

ART. 5. For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in congress on the first Monday in November, in every year, with a power reserved to each state to recall its delegates or any of them, at any time within the year, and to send others in their stead for the remainder of the year.

Each state may recall its delegates, &c.

Number and qualifications of delegates.

No state shall be represented in congress by less than two nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit, receives any salary, fees, or emolument of any kind.

Delegates how maintained.

Each state shall maintain its own delegates in a meeting of the states, and while they act as members of the committee of the states.

Each state to have one vote.

In determining questions in the United States in congress assembled, each state shall have one vote.

Privileges of members of congress.

Freedom of speech and debate in congress shall not be impeached or questioned in any court or place out of congress; and the members of congress shall be protected in their persons from arrests and imprisonments, during the time of their going to and from and attendance on congress, except for treason, felony, or breach of the peace.

No state to negotiate with foreign powers.

ART. 6. No state, without the consent of the United States in congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty, with any king, prince, or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state; nor shall the United States in congress assembled, or any of them, grant any title of nobility.

Persons holding offices not to accept presents.

Congress not to grant titles of nobility.

ARTICLES OF CONFEDERATION.

3

No two or more states shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States in congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

Treaties between two or more states prohibited.

No state shall lay any imposts or duties, which may interfere with any stipulations in treaties entered into by the United States in congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by congress to the courts of France and Spain.

No state to lay interfering imposts or duties.

No vessels of war shall be kept up in time of peace by any state, except such number only as shall be deemed necessary by the United States in congress assembled for the defence of such state or its trade; nor shall any body of forces be kept up by any state in time of peace, except such number only as, in the judgment of the United States in congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such state; but every state shall always keep up a well regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and have constantly ready for use, in public stores, a due number of field pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

Regulations respecting naval and military establishments, the militia, &c.

No state shall engage in any war without the consent of the United States in congress assembled, unless such state be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay till the United States in congress assembled can be consulted; nor shall any state grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in congress assembled, and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in congress assembled, unless such state be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in congress assembled shall determine otherwise.

No state, except in certain cases, to engage in war; nor grant commissions to armed vessels, &c.

ART. 7. When land forces are raised by any state for the common defence, all officers of or under the rank of colonel, shall be appointed by the legislature of each state respectively, by whom such forces shall be raised, or in such manner as such state shall direct; and all vacancies shall be filled up by the state which first made the appointment.

Certain officers of the land forces, to be appointed by each state.

ART. 8. All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the United States in congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states in

All charges of war, &c. to be defrayed out of a common treasury. Treasury how supplied.

proportion to the value of all land within each state granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States in congress assembled shall from time to time direct and appoint.

Taxes to be levied by the states.

The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several states, within the time agreed upon by the United States in congress assembled.

Powers of the congress.

ART. 9. The United States in congress assembled shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article : of sending and receiving ambassadors : entering into treaties and alliances ; provided, that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever : of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated : of granting letters of marque and reprisal, in times of peace : appointing courts for the trial of piracies and felonies committed on the high seas, and establishing courts for receiving and determining finally appeals in all cases of captures ; provided, that no member of congress shall be appointed a judge of any of the said courts.

Members of congress not to be judges of admiralty courts

Congress to decide disputes between states.

Mode of proceeding herein.

The United States in congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more states concerning boundary, jurisdiction, or any other cause whatever ; which authority shall always be exercised in the manner following : whenever the legislative or executive authority or lawful agent of any state in controversy with another shall present a petition to congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of congress to the legislative or executive authority of the other state in controversy, and a day assigned for the appearance of the parties, by their lawful agents, who shall then be directed to appoint by joint consent commissioners or judges to constitute a court for hearing and determining the matter in question ; but if they can not agree, congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen ; and from that number not less than seven nor more than nine names, as congress shall direct, shall, in the presence of congress, be drawn out by lot ; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to

Judges to be appointed by lot.

ARTICLES OF CONFEDERATION.

£

hear and finally determine the controversy, so always as a major part of the judges, who shall hear the cause, shall agree in the determination: and if either party shall neglect to attend at the day appointed, without showing reasons which congress shall judge sufficient, or being present shall refuse to strike, the congress shall proceed to nominate three persons out of each state, and the secretary of congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear, or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive, the judgment or sentence, and other proceedings, being in either case transmitted to congress, and lodged among the acts of congress for the security of the parties concerned: provided, that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the state, where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward:" provided also, that no state shall be deprived of territory for the benefit of the United States.

Opinions of majority of judges to prevail, &c.

Judgment to be final and conclusive.

Sentence and proceedings where deposited.

Oath to be taken by the judges.

Proviso.

All controversies concerning the private right of soil, claimed under different grants of two or more states, whose jurisdiction as they may respect such lands and the states which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different states.

Congress also to determine controversies concerning private right of soil.

The United States in congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective states: fixing the standard of weights and measures throughout the United States: regulating the trade and managing all affairs with the Indians not members of any of the states; provided that the legislative right of any state within its own limits be not infringed or violated: establishing and regulating post-offices from one state to another throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office: appointing all officers of the land forces in the service of the United States, excepting regimental officers: appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States: making rules for the government and regulation of the said land and naval forces, and directing their operations.

Further powers of congress.

Congress to appoint a committee of the states.

Additional powers of congress enumerated.

The United States in congress assembled shall have authority to appoint a committee to sit in the recess of congress, to be denominated "a committee of the states;" and to consist of one delegate from each state, and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States, under their direction: to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years: to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses: to borrow money or emit bills on the credit of the United States, transmitting every half year to the respective states an account of the sums of money so borrowed or emitted: to build and equip a navy: to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state; which requisition shall be binding, and thereupon the legislature of each state shall appoint the regimental officers, raise the men, and clothe, arm, and equip them in a soldier-like manner, at the expense of the United States; and the officers and men so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the United States in congress assembled: but if the United States in congress assembled, shall, on consideration of circumstances, judge proper that any state should not raise men or should raise a smaller number than its quota, and that any other state should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped, in the same manner as the quota of such state, unless the legislature of such state shall judge that such extra number can not be safely spared out of the same; in which case they shall raise, officer, clothe, arm, and equip, as many of such extra number as they judge can be safely spared. And the officers and men so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the United States in congress assembled.

Congress not to exercise certain powers unless by the votes of nine states.

The United States in congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defence and welfare of the United States or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander in chief of the army or navy; unless nine states assent to the same; nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States in congress assembled.

Questions how decided.

ARTICLES OF CONFEDERATION.

7

The congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months; and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each state on any question shall be entered on the journal, when it is desired by any delegate; and the delegates of a state, or any of them, at his or their request, shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several states.

Adjournment, and other proceedings, of congress.

ART. 10. The committee of the states, or any nine of them, shall be authorised to execute in the recess of congress, such of the powers of congress as the United States in congress assembled, by the consent of nine states, shall, from time to time, think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine states in the congress of the United States assembled is requisite.

Committee of the states may be vested with certain powers.

ART. 11. Canada, acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and entitled to, all the advantages of this union: but no other colony shall be admitted into the same unless such admission be agreed to by nine states.

Canada may be admitted into the confederacy.

ART. 12. All bills of credit emitted, moneys borrowed, and debts contracted, by or under the authority of congress, before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

Payment of debts assumed.

ART. 13. Every state shall abide by the determination of the United States in congress assembled, on all questions which, by this confederation, are submitted to them. And the articles of this confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a congress of the United States, and be afterwards confirmed by the legislature of every state.

Obligations imposed by the confederation.

Union perpetual, &c.

And whereas it has pleased the Great Governor of the world to incline the hearts of the legislatures we respectively represent in congress, to approve of and to authorise us to ratify the said articles of confederation and perpetual union: Know YE, That we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and in behalf of

Ratification.

our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained; and we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in congress assembled, on all questions which, by the said confederation, are submitted to them; and that the articles thereof shall be inviolably observed by the states we respectively represent; and that the union shall be perpetual.

In witness whereof, we have hereunto set our hands, in congress.
Done at Philadelphia, in the state of Pennsylvania, the ninth day of July, in the year of our Lord one thousand seven hundred and seventy-eight, and in the third year of the independence of America.

Signatures to
the act of
confeder-
ation.

On the part and behalf of the state of New-Hampshire.

Josiah Bartlet, John Wentworth, jun. August 8, 1778.

On the part and behalf of the state of Massachusetts Bay.

John Hancock, Francis Dana,
Samuel Adams, James Lovell,
Elbridge Gerry, Samuel Holten.

On the part and in behalf of the state of Rhode-Island and Providence Plantations.

William Ellery, John Collins,
Henry Marchant,

On the part and behalf of the state of Connecticut.

Roger Sherman, Titus Hosmer,
Samuel Huntington, Andrew Adams,
Oliver Wolcott,

On the part and behalf of the state of New-York.

Jas. Duane, Wm. Duer,
Fra. Lewis, Gouv. Morris.

On the part and in behalf of the state of New-Jersey.

Jno. Witherspoon, Nath. Scudder, Nov. 26, 1778.

On the part and behalf of the state of Pennsylvania.

Robt. Morris, William Clingan,
Daniel Roberdeau, Joseph Reed, 22d July, 1778.
Jona. Bayard Smith,

On the part and behalf of the state of Delaware.

Tho. M'Kean, Feb. 13, 1779. Nicholas Van Dyke.
John Dickinson, May 5th, 1779.

On the part and behalf of the state of Maryland.

John Hanson, March 1, 1781. Daniel Carroll, do.

On the part and behalf of the state of Virginia.

Richard Henry Lee, Jno. Harvie,
John Banister, Francis Lightfoot Lee.
Thomas Adams,

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Thomas Adams,

ARTICLES OF CONFEDERATION.

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On the part and behalf of the state of North-Carolina.

John Penn, July 21st, 1778. Jno. Williams.
Corns. Harnett,

On the part and behalf of the state of South-Carolina.

Henry Laurens, Richard Hutson,
William Henry Drayton, Thos. Heyward, jun.
Jno. Mathews,

On the part and behalf of the state of Georgia.

Jno. Walton, 24th July, 1778. Edwd. Langworthy.
Edwd. Telfair,

[*NOTE*—From the circumstance of delegates from the same state having signed the articles of confederation at different times, as appears by the dates, it is probable they affixed their names as they happened to be present in congress, after they had been authorised by their constituents.]

[The preceding copy of the articles of confederation, and the foregoing note, are taken from pages 18—20 of the first volume of the edition of the laws of the United States, published by Messrs. Bioren, Deane and Weightman, in 1815, under the authority of an act of congress.

By an act of the legislature of this state, which will be found in 1st Jones and Varick's revision, p. 15, entitled "An act of accession to and approbation of, certain proposed articles of confederation and perpetual union, between the United States of America, and to authorise the delegates of the state of New-York to ratify the same, on the part and behalf of this state, in the congress of the United States," passed 6th February, 1778, the delegates from New-York in congress, were authorised to ratify the above articles, in behalf of this state.

The above articles of confederation continued in force until the 4th day of March, 1789, when the constitution of the United States took effect.]

CONSTITUTION OF THE UNITED STATES.

WE, the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America.

ARTICLE 1.

SECTION 1.

1. All legislative powers herein granted, shall be vested in a congress of the United States, which shall consist of a senate and house of representatives. Legislative powers.

SECTION 2.

1. The house of representatives shall be composed of members chosen every second year by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature. House of representatives; its members; by whom chosen.

Qualifica-
tions of rep-
resentatives.

2. No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representa-
tives and tax-
es to be ap-
portioned ac-
cording to
numbers.

3. Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New-Hampshire shall be entitled to choose three; Mas-

Actual enu-
meration ev-
ery ten years.

Limitation of
the ratio of
representa-
tion, &c.

First appor-
tionment of
representa-
tives.

sachusetts eight; Rhode-Island and Providence Plantations one; Connecticut five; New-York six; New-Jersey four; Pennsylvania eight; Delaware one; Maryland six; Virginia ten; North-Carolina five; South-Carolina five; and Georgia three.

Vacancies
how filled.

4. When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

Powers of the
House.

5. The house of representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

SECTION 3.

Senators how
chosen.

1. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

The senate
divided into
three classes.

When vacat-
ed and filled.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class, shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

Vacancies.

Qualifica-
tions of sena-
tors.

3. No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

President of
the senate.

4. The vice-president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

5. The senate shall choose their other officers and also a president *pro tempore*, in the absence of the vice-president, or when he shall exercise the office of president of the United States. Ib. and other officers.

6. The senate shall have the sole power to try impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present. The sole power to try impeachments, in the senate, &c.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United states; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law. Extent of judgment in cases of impeachment.

SECTION 4.

1. The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may, at any time, by law, make or alter such regulations, except as to the places of choosing senators. Elections for senators and representatives, how regulated.

2. The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day. Meetings of congress.

SECTION 5.

1. Each house shall be the judge of the elections, returns, and qualifications, of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorised to compel the attendance of absent members, in such manner and under such penalties as each house may provide. Each house judge of the election of its own members. Quorum.

2. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds, expel a member. To determine its own rules, &c.

3. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question, shall, at the desire of one-fifth of those present, be entered on the journal. To keep and publish journals, &c.

4. Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting. Adjournment.

SECTION 6.

1. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases, except treason, Senators and representatives to be paid, &c. Privileges.

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felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to or returning from the same ; and for any speech or debate in either house, they shall not be questioned in any other place.

Disability to hold offices.

2. No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time ; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

SECTION 7.

Revenue bills.

1. All bills for raising revenue shall originate in the house of representatives ; but the senate may propose or concur with amendments as on other bills.

The forms of proceeding on bills.

2. Every bill which shall have passed the house of representatives and the senate, shall, before it become a law, be presented to the president of the United States ; if he approve he shall sign it ; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

It. on joint resolutions, except for adjournment.

3. Every order, resolution, or vote, to which the concurrence of the senate and house of representatives may be necessary, (except on a question of adjournment,) shall be presented to the president of the United States ; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SECTION 8.

Congress have power to lay taxes, &c.

The congress shall have power ;

1. To lay and collect taxes, duties, imposts, and excises ; to pay the debts and provide for the common defence and general welfare of the United States ; but all duties, imposts, and excises, shall be uniform throughout the United States :

2. To borrow money on the credit of the United States :
3. To regulate commerce with foreign nations, and among the several states, and with the Indian tribes :
4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States :
5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures :
6. To provide for the punishment of counterfeiting the securities and current coin of the United States :
7. To establish post-offices and post-roads :
8. To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries :
9. To constitute tribunals inferior to the supreme court : To define and punish piracies and felonies committed on the high seas, and offences against the law of nations :
10. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water :
11. To raise and support armies ; but no appropriation of money to that use, shall be for a longer term than two years :
12. To provide and maintain a navy :
13. To make rules for the government and regulation of the land and naval forces :
14. To provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions :
15. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress :
16. To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of government of the United States, and to exercise like authority over all places purchased, by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings : and,
17. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

SECTION 9.

1. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight,

Importation of certain persons not to be prohibited until after 1808.

but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

Writ of habeas corpus.

2. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

Bills of attainder, &c.
Direct taxes.

3. No bill of attainder, or *ex post facto* law, shall be passed.

4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

No export duty, nor preference of one state to another, &c.

5. No tax or duty shall be laid on articles exported from any state.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to or from one state be obliged to enter, clear, or pay duties in another.

Money to be expended by legal appropriation only.

6. No money shall be drawn from the treasury, but in consequence of appropriations made by law: and a regular statement and account of the receipts and expenditures of all public money, shall be published from time to time.

Titles of nobility, &c.

7. No title of nobility shall be granted by the United States, and no person holding any office of profit or trust under them, shall, without the consent of the congress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state.

SECTION 10.

Powers forbidden to the states individually.

1. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts; or grant any title of nobility.

Powers which the states can exercise only under the sanction of congress.

2. No state shall, without the consent of the congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the nett produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States, and all such laws shall be subject to the revision and control of the congress. No state shall, without the consent of congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE 2.

SECTION 1.

Executive power vested in a president, &c.

1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four

years, and, together with the vice-president, chosen for the same term, be elected as follows :

2. Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress ; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

Electors of president and vice president, &c.

[3. The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each ; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed ; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose, by ballot, one of them for president ; and if no person have a majority, then from the five highest on the list, the said house shall, in like manner, choose the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote : a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors, shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them, by ballot, the vice-president.*]

Meeting of the electors of president, &c.

Their proceedings

[* Annulled. See amendments, art. 12.]

4. The congress may determine the time of choosing the electors, and the day on which they shall give their votes ; which day shall be the same throughout the United States.

Time of choosing electors.

5. No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president ; neither shall any person be eligible to that office, who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

Qualifications of the president.

6. In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the congress may, by law, provide for the case of removal, death, resignation, or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall

In case of vacancy in the office of president, the vice president to act. &c.

act accordingly, until the disability be removed, or a president shall be elected.

Compensation of the president.

7. The president shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

The president to take an oath.

8. Before he enter on the execution of his office, he shall take the following oath or affirmation :

“ I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend the constitution of the United States.”

SECTION 2.

Powers of the president.

1. The president shall be commander in chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States ; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices ; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur : and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers, and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the congress may, by law, vest the appointment of such inferior officers as they think proper, in the president alone, in the courts of law, or in the heads of departments.

3. The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

SECTION 3.

Other duties and powers.

1. He shall, from time to time, give to the congress information of the state of the union, and recommend to their consideration, such measures as he shall judge necessary and expedient ; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper ; he shall receive ambassadors and other public ministers ; he shall take care that the laws be faithfully executed ; and shall commission all the officers of the United States.

SECTION 4.

1. The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors. Officers liable to impeachment.

ARTICLE 3.

SECTION 1.

1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office. Judicial power. Judges to hold their offices during good behavior, &c.

SECTION 2.

1. The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states, between a state and citizens of another state, between citizens of different states, between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens, or subjects. Extent of the judicial power.

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the congress shall make. Original and appellate jurisdiction of the supreme court.

3. The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed. Trial of crimes to be by jury, &c.

SECTION 3.

1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. Definition of treason.

2. The congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted. Congress to declare its punishment.

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ARTICLE 4.

SECTION 1.

Credit in one state to the public acts, &c. of another.

1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the congress may, by general laws, prescribe the manner in which such acts, records and proceedings, shall be proved, and the effect thereof.

SECTION 2.

Reciprocity of citizens.

1. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

Criminals flying from one state to another, to be delivered up on demand.

2. A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

Runaways to be delivered up.

3. No person held to service or labor in one state under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor ; but shall be delivered up on claim of the party to whom such service or labor may be due.

SECTION 3.

New states may be admitted into the union, &c.

1. New states may be admitted by the congress into this union ; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

Congress to have power over territory, &c.

2. The congress shall have power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States ; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

SECTION 4.

Republican form of government guaranteed to each state, &c.

1. The United States shall guaranty to every state in this union a republican form of government, and shall protect each of them against invasion ; and on application of the legislature, or of the executive (when the legislature can not be convened) against domestic violence.

ARTICLE 5.

Mode of amending this constitution.

1. The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution ; or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution,

when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress; provided, that no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article: and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE 6.

1. All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation. Assumption of former debts.

2. This constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby; any thing in the constitution or laws of any state to the contrary notwithstanding. This constitution, &c. the supreme law: the state judges bound thereby.

3. The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United states and of the several states, shall be bound by oath or affirmation, to support this constitution: but no religious test shall ever be required as a qualification to any office or public trust under the United States. Certain officers to take oath to support constitution. No religious test.

ARTICLE 7.

1. The ratification of the conventions of nine states, shall be sufficient for the establishment of this constitution between the states so ratifying the same. Ratification.

Done in convention, by the unanimous consent of the states present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the independence of the United States of America, the twelfth. In witness whereof, we have hereunto subscribed our names.

GEORGE WASHINGTON,

President, and deputy from Virginia.

NEW-HAMPSHIRE.

John Langdon,
Nicholas Gilman.

MASSACHUSETTS.

Nathaniel Gorham,
Rufus King.

CONNECTICUT.

William Samuel Johnson,

Roger Sherman.

NEW-YORK.

Alexander Hamilton.

NEW-JERSEY.

William Livingston,
David Brearly,
William Patterson,
Jonathan Dayton.

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PENNSYLVANIA.

Benjamin Franklin,
 Thomas Mifflin,
 Robert Morris,
 George Clymer,
 Thomas Fitzsimons,
 Jared Ingersoll,
 James Wilson,
 Gouverneur Morris.

DELAWARE.

George Read,
 Gunning Bedford, jun.
 John Dickinson,
 Richard Basset,
 Jacob Broom.

MARYLAND.

James M'Henry,
 Attest,

Daniel of St. Tho. Jenifer.
 Daniel Carroll.

VIRGINIA.

John Blair,
 James Madison, jun.

NORTH-CAROLINA.

William Blount,
 Richard Dobbs Spaight,
 Hugh Williamson.

SOUTH-CAROLINA.

John Rutledge,
 Charles Cotesworth Pinckney,
 Charles Pinckney,
 Pierce Butler.

GEORGIA.

William Few.
 Abraham Baldwin.

WILLIAM JACKSON, *Secretary*.

[The following extract from the journals of congress, shows the adoption of the constitution, and the time when it took effect.]

IN CONGRESS,

SATURDAY, SEPTEMBER 13, 1788.

On the question to agree to the following proposition, it was resolved in the affirmative by the unanimous votes of nine states, viz. of New-Hampshire, Massachusetts, Connecticut, New-York, New-Jersey, Pennsylvania, Virginia, South-Carolina, and Georgia.

The constitution declared to be ratified.

Whereas the convention assembled in Philadelphia, pursuant to the resolution of congress of the 21st February, 1787, did, on the 17th of September in the same year, report to the United States in congress assembled, a constitution for the people of the United States; whereupon, congress, on the 28th of the same September, did resolve unanimously, "that the said report, with the resolutions and letter accompanying the same, be transmitted to the several legislatures, in order to be submitted to a convention of delegates chosen in each state by the people thereof, in conformity to the resolves of the convention made and provided in that case:" and whereas the constitution so reported by the convention, and by congress transmitted to the several legislatures, has been ratified in the manner therein declared to be sufficient for the establishment of the same, and such ratifications duly authenticated have been received by congress, and are filed in the office of the secretary; therefore,

Federal government to go into operation on the 4th of March, 1789.

Resolved, That the first Wednesday in January next be the day for appointing electors in the several states, which before the said day shall have ratified the said constitution; that the first Wednesday in

February next, be the day for the electors to assemble in their respective states, and vote for a president ; and that the first Wednesday in March next, be the time, and the present seat of congress the place, for commencing proceedings under the said constitution.

AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES.

[The following amendments were proposed at the first session of the first congress of the United States, which was begun and held at the city of New-York, on the 4th of March, 1789, and were adopted by the requisite number of states. 1 vol. laws U. S. p. 72.]

ARTICLE 1.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press ; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Restrictions on the powers of congress.

ARTICLE 2.

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

Right of the people to keep arms, &c.

ARTICLE 3.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner ; nor in time of war, but in a manner to be prescribed by law.

Quartering of soldiers, &c.

ARTICLE 4.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated ; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Search warrants, &c.

ARTICLE 5.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger ; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb ; nor shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law ; nor shall private property be taken for public use without just compensation.

Proceedings against persons charged with crimes.
Their rights.

ARTICLE 6.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall

Further rights.

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have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

ARTICLE 7.

Right of trial
by jury.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

ARTICLE 8.

Excessive
bail, &c.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE 9.

Construction
of constitu-
tion.

The enumeration in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE 10.

Powers re-
served to the
states.

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

[The following amendment was proposed at the second session of the third congress. It is printed in the laws of the United States, 1st vol. p. 73, as article 11.]

ARTICLE 11.

Restriction of
judicial pow-
ers.

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

[The three following sections were proposed as amendments at the first session of the eighth congress.

They are printed in the laws of the United States as ARTICLE TWELVE.]

ARTICLE 12.

Mode of
electing the
president and
vice-presi-
dent of the
United
States.

1. The electors shall meet in their respective states, and vote by ballot for president and vice-president, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in the presence of the senate

and house of representatives, open all the certificates, and the votes shall then be counted: the person having the greatest number of votes for president, shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president.

2. The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list, the senate shall choose the vice-president: a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

3. But no person constitutionally ineligible to the office of president, shall be eligible to that of vice-president of the United States.

[In the edition of the laws of the U. S. before referred to, there is an amendment printed as article 13, prohibiting citizens from accepting titles of nobility or honor, or presents, offices, &c. from foreign nations. But, by a message of the president of the United States of the 4th of February, 1818, in answer to a resolution of the house of representatives, it appears that this amendment had been ratified only by 12 states, and therefore had not been adopted. See vol. iv. of the printed papers of the 1st session of the 16th congress, No. 76.]

THE FORMER CONSTITUTION

OF THE STATE OF NEW-YORK.

In Convention of the Representatives of the State of New-York.

KINGSTON, 20TH APRIL, 1777.

WHEREAS the many tyrannical and oppressive usurpations of the king and parliament of Great Britain, on the rights and liberties of the people of the American colonies, had reduced them to the necessity of introducing a government by congresses and committees, as

temporary expedients, and to exist no longer than the grievances of the people should remain without redress.

AND WHEREAS the congress of the colony of New-York, did, on the thirty-first day of May, now last past, resolve as follows, viz :

Its object temporary.

“ Whereas the present government of this colony, by congress and committees, was instituted while the former government, under the crown of Great Britain, existed in full force ; and was established for the sole purpose of opposing the usurpation of the British parliament, and was intended to expire on a reconciliation with Great Britain, which it was then apprehended would soon take place, but is now considered as remote and uncertain.

Its inconveniences.

“ And whereas many and great inconveniences attend the said mode of government by congress and committees, as of necessity, in many instances, legislative, judicial and executive powers have been vested therein, especially since the dissolution of the former government, by the abdication of the late governor, and the exclusion of this colony from the protection of the king of Great Britain.

“ And whereas the continental congress did resolve as followeth, to wit :

Recital.

“ “ Whereas his Britannic majesty, in conjunction with the lords and commons of Great Britain, has, by a late act of parliament, excluded the inhabitants of these united colonies from the protection of his crown. And whereas, no answers whatever, to the humble petition of the colonies for redress of grievances and reconciliation with Great Britain, has been, or is likely to be given, but the whole force of that kingdom, aided by foreign mercenaries, is to be exerted for the destruction of the good people of these colonies. And whereas it appears absolutely irreconcilable to reason and good conscience, for the people of these colonies, now to take the oaths and affirmations necessary for the support of any government under the crown of Great Britain, and it is necessary that the exercise of every kind of authority under the said crown, should be totally suppressed, and all the powers of government exerted under the authority of the people of the colonies, for the preservation of internal peace, virtue and good order, as well as for the defence of our lives, liberties, and properties, against the hostile invasions and cruel depredations of our enemies :

“ “ Therefore,

Resolution of the general congress, recommending the institution of new governments.

“ “ *Resolved*, That it be recommended to the respective assemblies and conventions of the united colonies, where no government sufficient to the exigencies of their affairs has been hitherto established, to adopt such government as shall, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general.’

Powers of the provincial congress inadequate.

“ And whereas doubts have arisen, whether this congress are invested with sufficient power and authority to deliberate and determine on so important a subject as the necessity of erecting and con-

stituting a new form of government and internal police, to the exclusion of all foreign jurisdiction, dominion and control whatever. And whereas it appertains of right solely to the people of this colony to determine the said doubts : Therefore,

“ *Resolved*, That it be recommended to the electors in the several counties in this colony, by election in the manner and form prescribed for the election of the present congress, either to authorise (in addition to the powers vested in this congress) their present deputies, or others in the stead of their present deputies, or either of them, to take into consideration the necessity and propriety of instituting such new government as in and by the said resolution of the continental congress is described and recommended : And if the majority of the counties, by their deputies in provincial congress, shall be of opinion that such new government ought to be instituted and established, then to institute and establish such a government as they shall deem best calculated to secure the rights, liberties, and happiness of the good people of this colony : and to continue in force until a future peace with Great Britain shall render the same unnecessary. And,

Recommendation to elect deputies with adequate powers.

“ *Resolved*, That the said elections in the several counties, ought to be had on such day, and at such place or places, as by the committee of each county respectively shall be determined. And it is recommended to the said committees, to fix such early days for the said elections, as that all the deputies to be elected have sufficient time to repair to the city of New-York by the second Monday in July next ; on which day all the said deputies ought punctually to give their attendance.

Time and place of meeting.

“ And whereas the object of the foregoing resolutions is of the utmost importance to the good people of this colony ;

“ *Resolved*, That it be, and it is hereby earnestly recommended to the committees, freeholders and other electors in the different counties in this colony, diligently to carry the same into execution.”

AND WHEREAS the good people of the said colony, in pursuance of the said resolution, and reposing special trust and confidence in the members of this convention, have appointed, authorised, and empowered them for the purposes, and in the manner, and with the powers in and by the said resolve specified, declared and mentioned.

Appointment of this convention.

AND WHEREAS the delegates of the United American States, in general congress convened, did on the fourth day of July now last past, solemnly publish and declare, in the words following, viz.

Proceedings of the general congress.

“ When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the laws of nature and of nature’s God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

Declaration of independence.

Reasons
thereof.

“ We hold these truths to be self-evident, that all men are created equal ; that they are endowed by their Creator with certain unalienable rights ; that among these are, life, liberty and the pursuit of happiness : that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed : that whenever any form of government becomes destructive of those ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments long established should not be changed for light and transient causes, and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies ; and such is now the necessity which constrains them to alter former system of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

Grievances.

“ He has refused his assent to laws, the most wholesome and necessary for the public good.

“ He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained ; and when so suspended, he has utterly neglected to attend to them.

“ He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature ; a right inestimable to them, and formidable to tyrants only.

“ He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

“ He has dissolved representative houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

“ He has refused for a long time, after such dissolutions, to cause others to be elected, whereby the legislative powers, incapable of annihilation, have returned to the people at large, for their exercise ; the state remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

“ He has endeavored to prevent the population of these states ; for that purpose obstructing the laws for naturalization of foreigners ; re-

fusing to pass others to encourage their migrations hither, and raising the conditions of new appropriations of lands.

“ He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

“ He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

“ He has erected a multitude of new offices, and sent hither swarms of officers to harrass our people, and eat out their substance.

“ He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

“ He has affected to render the military independent of, and superior to, the civil power.

“ He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws ; giving his assent to their acts of pretended legislation—

“ For quartering large bodies of troops among us :

“ For protecting them by a mock trial, from punishment for any murders they should commit on the inhabitants of these states :

“ For cutting off our trade with all parts of the world :

“ For imposing taxes on us, without our consent :

“ For depriving us, in many cases, of the benefits of trial by jury :

“ For transporting us beyond seas, to be tried for pretended offences.

“ For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies :

“ For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments :

“ For suspending our own legislatures, and declaring themselves invested with power, to legislate for us in all cases whatsoever.

“ He has abdicated government here, by declaring us out of his protection, and waging war against us.

“ He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

“ He is at this time transporting large armies of foreign mercenaries, to complete the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy, scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

“ He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

“ He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

FORMER CONSTITUTION OF

“ In every stage of these oppressions, we have petitioned for redress, in the most humble terms : our repeated petitions have been answered only by repeated injury. A prince whose character is thus marked, by every act which may define a tyrant, is unfit to be the ruler of a free people.

“ Nor have we been wanting in attentions to our British brethren. We have warned them from time to time, of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connexion and correspondence. They, too, have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our separation, and hold them as we hold the rest of mankind : enemies in war ; in peace, friends.

“ We, therefore, the representatives of the United States of America, in general congress assembled, appealing to the supreme judge of the world, for the rectitude of our intentions, do, in the name and by the authority of the good people of these colonies, solemnly publish and declare, that these united colonies are, and of right ought to be **FREE AND INDEPENDENT STATES** ; that they are absolved from all allegiance to the British crown, and that all political connexion between them and the state of Great Britain, is, and ought to be, totally dissolved ; and that as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other, our lives, our fortunes, and our sacred honor.”

Approved.

AND WHEREAS this convention, having taken this declaration into their most serious consideration, did, on the ninth day of July last past, unanimously resolve that the reasons assigned by the continental congress, for declaring the united colonies free and independent states, are cogent, and conclusive ; and that, while we lament the cruel necessity which has rendered that measure unavoidable, we approve the same, and will, at the risk of our lives and fortunes, join with the other colonies in supporting it.

Powers of the
convention.

By virtue of which several acts, declarations, and proceedings, mentioned and contained in the afore-recited resolves or resolutions of the general congress of the United American States, and of the congresses or conventions of this state, all power whatever therein hath reverted to the people thereof, and this convention hath, by their suffrages and free choice, been appointed, and among other things, au-

thorized to institute and establish such a government as they shall deem best calculated to secure the rights and liberties of the good people of this state, most conducive of the happiness and safety of their constituents in particular, and of America in general :

I. This convention, therefore, in the name and by the authority of All authority derived from the people. the good people of this state, **DOETH ORDAIN, DETERMINE AND DECLARE**, That no authority shall, on any pretence whatever, be exercised over the people or members of this state, but such as shall be derived from and granted by them.

II. This convention doth further, in the name and by the authority of the good people of this state, **ORDAIN, DETERMINE AND DECLARE**, That the supreme legislative power within this state, shall be vested in two separate and distinct bodies of men; the one to be called the Assembly of the state of New-York; the other to be called the Senate of the state of New-York; who, together, shall form the legislature, and meet once at least in every year for the despatch of business. Legislative power.

III. **AND WHEREAS** laws inconsistent with the spirit of this constitution, or with the public good, may be hastily and unadvisedly passed: **BE IT ORDAINED**, That the governor, for the time being, the chancellor and the judges of the supreme court, or any two of them, together with the governor, shall be, and hereby are, constituted a council to revise all bills about to be passed into laws by the legislature. And for that purpose shall assemble themselves, from time to time, when the legislature shall be convened; for which, nevertheless, they shall not receive any salary or consideration under any pretence whatever. And that all bills which have passed the senate and assembly, shall, before they become laws, be presented to the said council for their revision and consideration; and if upon such revision and consideration, it should appear improper to the said council, or a majority of them, that the said bill should become a law of this state, that they return the same, together with their objections thereto in writing, to the senate or house of assembly, in whichever the same shall have originated, who shall enter the objections sent down by the council, at large, in their minutes, and proceed to re-consider the said bill. But if after such re-consideration, two-thirds of the said senate or house of assembly, shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be re-considered, and if approved by two-thirds of the members present, shall be a law. Council of revision.

And in order to prevent any unnecessary delays,

BE IT FURTHER ORDAINED, That if any bill shall not be returned by the council, within ten days after it shall have been presented, the same shall be a law, unless the legislature shall, by their adjournment, render a return of the said bill within ten days impracticable; Bills to become laws if not returned in ten days.

in which case, the bill shall be returned on the first day of the meeting of the legislature, after the expiration of the said ten days.

The assembly.

IV. That the assembly shall consist of at least seventy members, to be annually chosen in the several counties, in the proportions following, viz :

Representation apportioned to each county.

For the city and county of New-York,	Nine.
The city and county of Albany,	Ten.
The county of Dutchess,	Seven.
The county of Westchester,	Six.
The county of Ulster,	Six.
The county of Suffolk,	Five.
The county of Queens,	Four.
The county of Orange,	Four.
The county of Kings,	Two.
The county of Richmond,	Two.
*The county of Tryon,	Six.
*The county of Charlotte,	Four.
†The county of Cumberland,	Three.
‡The county of Gloucester,	Two.

Census, when and how to be taken.

V. That as soon after the expiration of seven years, subsequent to the termination of the present war, as may be, a census of the electors and inhabitants in this state be taken, under the direction of the legislature. And if on such census it shall appear, that the number of representatives in assembly from the said counties is not justly proportioned to the number of electors in the said counties respectively, that the legislature do adjust and apportion the same by that rule. And further, that once in every seven years, after the taking of the said first census, a just account of the electors resident in each county shall be taken ; and if it shall thereupon appear that the number of electors in any county, shall have increased or diminished one or more seventieth parts of the whole number of electors, which on the said first census shall be found in this state, the number of representatives for such county shall be increased or diminished accordingly, that is to say, one representative for every seventieth part, as aforesaid.

Ballot, opinion of voting by.

VI. AND WHEREAS an opinion hath long prevailed among divers of the good people of this state, that voting at elections by ballot, would tend more to preserve the liberty and equal freedom of the people, than voting *viva voce* : to the end, therefore, that a fair experiment be made, which of those two methods of voting is to be preferred :

After the war, experiment to be made.

BE IT ORDAINED, That as soon as may be, after the termination of the present war, between the United States of America and Great Britain, an act or acts be passed by the legislature of this state, for causing all elections thereafter to be held in this state for senators

* Names afterwards altered, and the territory of which they consisted, divided into several counties. † Ceded to Vermont.

and representatives in assembly, to be by ballot, and directing the manner in which the same shall be conducted. **AND WHEREAS** it is possible, that after all the care of the legislature, in framing the said act or acts, certain inconveniences and mischiefs, unforeseen at this day, may be found to attend the said mode of electing by ballot :

IT IS FURTHER ORDAINED, That if after a full and fair experiment shall be made of voting by ballot aforesaid, the same shall be found less conducive to the safety or interest of the state, than the method of voting *viva voce*, it shall be lawful and constitutional for the legislature to abolish the same : *Provided* two-thirds of the members present in each house respectively, shall concur therein. And further, that during the continuance of the present war, and until the legislature of this state shall provide for the election of senators, and representatives in assembly, by ballot, the said elections shall be made *viva voce*.

To be abridged if it is inconvenient

VII. That every male inhabitant of full age, who shall have personally resided within one of the counties of this state, for six months immediately preceding the day of election, shall at such election, be entitled to vote for representatives of the said county in assembly ; if during the time aforesaid, he shall have been a freeholder, possessing a freehold of the value of twenty pounds, within the said county, or have rented a tenement therein of the yearly value of forty shillings, and been rated and actually paid taxes to this state : *Provided always*, That every person who now is a freeman of the city of Albany, or who was made a freeman of the city of New-York, on or before the fourteenth day of October, in the year of our Lord one thousand seven hundred and seventy-five, and shall be actually and usually resident in the said cities respectively, shall be entitled to vote for representatives in assembly within his said place of residence.

Qualifications of electors.

VIII. That every elector, before he is admitted to vote, shall, if required by the returning officer or either of the inspectors, take an oath, or if of the people called quakers, an affirmation, of allegiance to the state.

Oath of allegiance.

IX. That the assembly thus constituted, shall chuse their own speaker, be judges of their own members, and enjoy the same privileges, and proceed in doing business, in like manner as the assemblies of the colony of New-York of right formerly did ; and that a majority of the said members shall, from time to time, constitute a house to proceed upon business.

Privileges of members of assembly.

A quorum

X. And this convention doth further, in the name, and by the authority of the good people of this state, **ORDAIN, DETERMINE AND DECLARE**, that the senate of the state of New-York shall consist of twenty-four freeholders, to be chosen out of the body of the freeholders, and that they be chosen by the freeholders of this state, possessed of freeholds of the value of one hundred pounds, over and above all debts charged thereon.

Number of senators, and by whom chosen.

Their term of election, and rotation in office.

XI. That the members of the senate be elected for four years, and immediately after the first election, they be divided by lot into four classes, six in each class, and numbered, one two, three, and four ; and that the seats of the members of the first class shall be vacated at the expiration of the first year ; the second class the second year, and so on continually, to the end, that the fourth part of the senate, as nearly as possible, may be annually chosen.

Manner of choosing.

XII. That the election of senators shall be after this manner : that so much of this state as is now parcelled into counties, be divided into four great districts : the southern district to comprehend the city and county of New-York, Suffolk, Westchester, Kings, Queens, and Richmond counties : the middle district to comprehend the counties of Dutchess, Ulster, and Orange : the western district, the city and county of Albany, and Tryon county ; and the eastern district, the counties of Charlotte, Cumberland and Gloucester. That the senators shall be elected by the freeholders of the said districts, qualified as aforesaid, in the proportions following, to wit : in the southern district, nine ; in the middle district, six ; in the western district,

Genus, and apportionment of the senators.

six ; and in the eastern district, three. **AND BE IT ORDAINED**, that a census shall be taken as soon as may be, after the expiration of seven years from the termination of the present war, under the direction of the legislature ; and if, on such census, it shall appear that the number of senators is not justly proportioned to the several districts, that the legislature adjust the proportion, as near as may be, to the number of freeholders, qualified as aforesaid, in each district. That when the number of electors within any of the said districts shall have increased one twenty-fourth part of the whole number of electors, which by the said census shall be found to be in this state, an additional senator shall be chosen by the electors of such district. That a majority of the number of senators, to be chosen as aforesaid, shall be necessary to constitute a senate sufficient to proceed upon business ; and that the senate shall, in like manner with the assembly, be the judges of its own members. **AND BE IT ORDAINED**, that it shall be in the power of the future legislatures of this state, for the convenience and advantage of the good people thereof, to divide the same into such further and other counties and districts, as shall to them appear necessary.

A quorum.

To be judges of their own members.

Other counties and districts may be erected.

No person to be disfranchised but by law.

XIII. And this convention doth further, in the name and by the authority of the good people of this state, **ORDAIN, DETERMINE, AND DECLARE**, that no member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to the subjects of this state by this constitution, unless by the law of the land, or the judgment of his peers.

Adjournments of both houses.

XIV. That neither the assembly or the senate shall have power to adjourn themselves for any longer time than two days, without the mutual consent of both.

XV. That, whenever the assembly and senate disagree, a conference shall be held in the presence of both, and be managed by committees, to be by them respectively chosen by ballot. That the doors, both of the senate and assembly, shall at all times be kept open to all persons, except when the welfare of the state shall require their debates to be kept secret. And the journals of all their proceedings shall be kept in the manner heretofore accustomed by the general assembly of the colony of New-York; and, except such parts as they shall, as aforesaid, respectively determine not to make public, be, from day to day, if the business of the legislature will permit, published.

Conference between them.

Doors to be open, and

Journals how kept and published.

XVI. It is, nevertheless, provided, that the number of senators shall never exceed one hundred, nor the number of the assembly three hundred: but that, whenever the number of senators shall amount to one hundred, or of the assembly to three hundred, then, and in such case, the legislature shall, from time to time hereafter, by laws for that purpose, apportion and distribute the said one hundred senators and three hundred representatives among the great districts, and counties of this state, in proportion to the number of their respective electors, so that the representation of the good people of this state, both in the senate and assembly, shall forever remain proportionate and adequate.

Number of the senate and assembly limited.

XVII. And this convention doth further, in the name and by the authority of the good people of this state, **ORDAIN, DETERMINE, AND DECLARE**, that the supreme executive power and authority of this state shall be vested in a governor; and that, statedly, once in every three years, and as often as the seat of government shall become vacant, a wise and discreet freeholder of this state shall be, by ballot, elected governor, by the freeholders of this state, qualified, as before described, to elect senators, which elections shall be always held at the times and places of choosing representatives in assembly for each respective county; and that the person who hath the greatest number of votes within the said state, shall be the governor thereof.

Executive power vested in a governor.

When and how to be chosen.

XVIII. That the governor shall continue in office three years, and shall, by virtue of his office, be general and commander in chief of all the militia, and admiral of the navy, of this state; that he shall have power to convene the assembly and senate on extraordinary occasions; to prorogue them from time to time, provided such prorogations shall not exceed sixty days in the space of any one year; and, at his discretion, to grant reprieves and pardons to persons convicted of crimes other than treason or murder, in which he may suspend the execution of the sentence, until it shall be reported to the legislature, at their subsequent meeting, and they shall either pardon, or direct the execution of the criminal, or grant a further reprieve.

His power.

XIX. That it shall be the duty of the governor to inform the legislature, at every session, of the condition of the state, so far as may re-

And duty.

spect his department ; to recommend such matters to their consideration as shall appear to him to concern its good government, welfare, and prosperity ; to correspond with the continental congress, and other states ; to transact all necessary business with the officers of government, civil and military ; to take care that the laws are faithfully executed, to the best of his ability ; and to expedite all such measures as may be resolved upon by the legislature.

Lt. governor. XX. That a lieutenant-governor shall, at every election of a governor, and as often as the lieutenant-governor shall die, resign, or be removed from office, be elected in the same manner with the governor, to continue in office until the next election of a governor ; and such lieutenant-governor shall, by virtue of his office, be president of the senate, and, upon an equal division, have a casting vote in their decisions, but not vote on any other occasion.

To be president of the senate.

His further power and duty.

And in case of the impeachment of the governor, or his removal from office, death, resignation, or absence from the state, the lieutenant-governor shall exercise all the power and authority appertaining to the office of governor, until another be chosen, or the governor absent or impeached, shall return, or be acquitted. *Provided*, that where the governor shall, with the consent of the legislature, be out of the state, in time of war, at the head of a military force thereof, he shall still continue in his command of all the military force of this state, both by sea and land.

In his absence a president to be chosen by the senate.

His power and duty.

XXI. That whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as president of the senate, the senators shall have power to elect one of their own members to the office of president of the senate, which he shall exercise *pro hac vice*. And if, during such vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or be absent from the state, the president of the senate shall, in like manner as the lieutenant-governor, administer the government, until others shall be elected by the suffrage of the people, at the succeeding election.

Treasurer.

XXII. And this convention doth further, in the name and by the authority of the good people of this state, **ORDAIN, DETERMINE, AND DECLARE**, that the treasurer of this state shall be appointed by act of the legislature, to originate with the assembly. *Provided*, that he shall not be elected out of either branch of the legislature.

Council of appointments.

XXIII. That all officers, other than those who, by this constitution, are directed to be otherwise appointed, shall be appointed in the manner following, to wit : The assembly shall, once in every year, openly nominate and appoint one of the senators from each great district, which senators shall form a council, for the appointment of the said officers, of which the governor for the time being, or the lieutenant-governor, or the president of the senate, (when they shall respectively administer the government,) shall be president, and have a casting

voice, but no other vote ; and, with the advice and consent of the said council, shall appoint all the said officers ; and that a majority of the said council be a quorum : **AND FURTHER**, The said senators shall not be eligible to the said council for two years successively.

XXIV. That all military officers be appointed during pleasure ; Tenure of certain offices. that all commissioned officers, civil and military, be commissioned by the governor ; and that the chancellor, the judges of the supreme court, and first judge of the county court in every county, hold their offices during good behavior, or until they shall have respectively attained the age of sixty years.

XXV. That the chancellor and judges of the supreme court shall not, at the same time, hold any other office, excepting that of delegate to the general congress, upon special occasions ; and that the first judges of the county courts, in the several counties, shall not, at the same time, hold any other office, excepting that of senator, or delegate to the general congress. But if the chancellor, or either of the said judges be elected or appointed to any other office, excepting as is before excepted, it shall be at his option in which to serve. Tenure of certain judicial offices.

XXVI. That sheriffs and coroners be annually appointed ; and that no person shall be capable of holding either of the said offices more than four years successively ; nor the sheriff of holding any other office at the same time. Sheriffs and coroners.

XXVII. AND BE IT FURTHER ORDAINED, That the register, and clerks in chancery, be appointed by the chancellor ; the clerks of the supreme court, by the judges of the said court ; the clerk of the court of probates, by the judge of the said court ; and the register and marshal of the court of admiralty, by the judge of the admiralty. The said marshal, registers, and clerks, to continue in office during the pleasure of those by whom they are to be appointed as aforesaid. Registers clerks, and marshal, by whom appointed.

And all attorneys, solicitors, and counsellors at law, hereafter to be appointed, be appointed by the court, and licensed by the first judge of the court in which they shall respectively plead or practice ; and be regulated by the rules and orders of the said courts. Attornies, solicitors, and counsellors, by whom appointed.

XXVIII. AND BE IT FURTHER ORDAINED, That where, by this constitution, the duration of any office shall not be ascertained, such office shall be construed to be held during the pleasure of the council of appointment : *Provided*, that new commissions shall be issued to judges of the county courts (other than to the first judge,) and to justices of the peace, once at the least in every three years. Duration of offices.

XXIX. The town clerks, supervisors, assessors, constables, and collectors, and all other officers, heretofore eligible by the people, shall always continue to be so eligible, in the manner directed by the present or future acts of legislature. Town officers.

That loan officers, county treasurers, and clerks of the supervisors, continue to be appointed in the manner directed by the present or future acts of the legislature. Loan officers, county treasurers, &c.

Delegates to
congress.

XXX. That delegates to represent this state in the general congress of the United States of America be annually appointed, as follows, to wit : The senate and assembly shall each openly nominate as many persons as shall be equal to the whole number of delegates to be appointed ; after which nomination they shall meet together, and those persons named in both lists, shall be delegates ; and out of those persons whose names are not on both lists, one half shall be chosen by the joint ballot of the senators and members of assembly, so met together as aforesaid.

Style of laws
and form of
process.

XXXI. That the style of all laws shall be as follows, to wit : " Be it enacted by the people of the state of New-York, represented in senate and assembly," and that all writs and other proceedings shall run in the name of the people of the state of New-York, and be tested in the name of the chancellor, or chief judge of the court from whence they shall issue.

Court for the
trial of im-
peachments
and the cor-
rection of er-
rors.

XXXII. And this convention doth further, in the name and by the authority of the good people of this state, **ORDAIN, DETERMINE, AND DECLARE**, that a court shall be instituted for the trial of impeachments and the correction of errors, under the regulations which shall be established by the legislature, and to consist of the president of the senate for the time being, and the senators, chancellor and judges of the supreme court, or the major part of them ; except that when an impeachment shall be prosecuted against the chancellor, or either of the judges of the supreme court, the person so impeached shall be suspended from exercising his office, until his acquittal : and, in like manner, when an appeal, from a decree in equity, shall be heard, the chancellor shall inform the court of the reasons of his decree, but shall not have a voice in the final sentence. And if the cause to be determined shall be brought up by writ of error, on a question of law, on a judgment in the supreme court, the judges of the court shall assign the reasons of such their judgment, but shall not have a voice for its affirmance or reversal.

Power of im-
peachment,
and manner
of proceed-
ing.

XXXIII. That the power of impeaching all officers of the state, for mal and corrupt conduct in their respective offices, be vested in the representatives of the people in assembly ; but that it shall always be necessary that two third parts of the members present shall consent to and agree in such impeachment. That, previous to the trial of every impeachment, the members of the said court shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence ; and that no judgment of the said court shall be valid unless it shall be assented to by two third parts of the members then present ; nor shall it extend farther than to removal from office and disqualification to hold or enjoy any place of honor, trust, or profit, under this state. But the party so convicted shall be, nevertheless, liable and subject to indictment, trial, judgment, and punishment, according to the laws of the land.

XXXIV. AND IT IS FURTHER OBTAINED, That in every trial on Party accus-
ed to be al-
lowed coun-
sel. impeachment, or indictment for crimes or misdemeanors, the party impeached or indicted shall be allowed counsel, as in civil actions.

XXXV. And this convention doth further, in the name and by the Law of the
state. authority of the good people of this state, ORDAIN, DETERMINE, AND DECLARE, that such parts of the common law of England, and of the statute law of England and Great Britain, and of the acts of the legislature of the colony of New-York, as together did form the law of the said colony on the 19th day of April, in the year of our Lord one thousand seven hundred and seventy-five, shall be and continue the law of this state, subject to such alterations and provisions as the legislature of this state shall, from time to time, make concerning the same. That such of the said acts as are temporary, shall expire at the times limited for their duration respectively. That all such parts of the said common law, and all such of the said statutes and acts aforesaid, or parts thereof, as may be construed to establish or maintain any particular denomination of christians or their ministers, or concern the allegiance heretofore yielded to, and the supremacy, sovereignty, government, or prerogatives, claimed or exercised by the king of Great Britain and his predecessors, over the colony of New-York and its inhabitants, or are repugnant to this constitution, be and they hereby are, abrogated and rejected. And this convention doth further ORDAIN, that the resolves or resolutions of the congresses of the colony of New-York, and of the covention of the state of New-York, now in force, and not repugnant to the government established by this constitution, shall be considered as making part of the laws of this state; subject, nevertheless, to such alterations and provisions as the legislature of this state may, from time to time, make concerning the same.

XXXVI. AND BE IT FURTHER OBTAINED, That all grants of land Grants by the
king after a
certain period
void. within this state, made by the king of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but that nothing in this constitution contained, shall be construed to affect any grants of land, within this state, made by the authority of the said king or his predecessors, or to annul any charters to bodies politic, by him or them, or any of them, made prior to that day. And that none of the said charters shall be adjudged to be void, by Charter rights
and former
grants pre-
served. reason of any nonuser or misuser of any of their respective rights or privileges, between the nineteenth day of April, in the year of our Lord one thousand seven hundred and seventy-five, and the publication of this constitution. AND FURTHER, that all such of the officers, described in the said charters respectively, as, by the terms of the said charters, were to be appointed by the governor of the colony of New-York, with or without the advice and consent of the council of the said king, in the said colony, shall henceforth be appointed by the

council established by this constitution for the appointment of officers in this state, until otherwise directed by the legislature.

Purchases of
lands from
the Indians.

XXXVII. AND WHEREAS it is of great importance to the safety of this state that peace and amity with the Indians within the same, be at all times supported and maintained: **AND WHEREAS** the frauds too often practiced towards the said Indians, in contracts made for their lands, have, in divers instances, been productive of dangerous discontents and animosities: **BE IT ORDAINED**, that no purchases or contracts for the sale of lands made since the 14th day of October, in the year of our Lord one thousand seven hundred and seventy-five, or which may hereafter be made with or of the said Indians, within the limits of this state, shall be binding on the said Indians, or deemed valid, unless made under the authority and with the consent of the legislature of this state.

Free exercise
of religion.

XXXVIII. AND WHEREAS we are required, by the benevolent principles of rational liberty, not only to expel civil tyranny, but also to guard against that spiritual oppression and intolerance wherewith the bigotry and ambition of weak and wicked priests and princes have scourged mankind: this convention doth further, in the name and by the authority of the good people of this state, **ORDAIN, DETERMINE, AND DECLARE**, that the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever hereafter be allowed within this state to all mankind: *Provided*, that the liberty of conscience hereby granted shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

No minister
or priest to
hold any of-
fice.

XXXIX. AND WHEREAS the ministers of the gospel are, by their profession, dedicated to the service of God and the cure of souls, and ought not to be diverted from the great duties of their function; therefore no minister of the gospel, or priest of any denomination whatsoever, shall, at any time hereafter, under any pretence or description whatever, be eligible to or capable of holding, any civil or military office or place within this state.

Militia.

XL. AND WHEREAS it is of the utmost importance to the safety of every state, that it should always be in a condition of defence; and it is the duty of every man who enjoys the protection of society, to be prepared and willing to defend it; this convention, therefore, in the name, and by the authority of the good people of this state, doth **ORDAIN, DETERMINE, AND DECLARE**, That the militia of this state, at all times hereafter, as well in peace as in war, shall be armed and disciplined, and in readiness for service. That all such of the inhabitants of this state (being of the people called Quakers) as from scruples of conscience, may be averse to the bearing of arms, be therefrom excused by the legislature, and do pay to the state such sums of money, in lieu of their personal service, as the same may, in the judgment of the legislature, be worth. And that a proper ma-

THE STATE OF NEW-YORK.

gazine of warlike stores proportionate to the number of inhabitants, ^{Magazines.} be, forever hereafter, at the expense of this state, and by acts of the legislature, established, maintained, and continued, in every county in this state.

XLI. And this convention doth further **ORDAIN, DETERMINE AND** ^{Trial by jury.} **DECLARE,** in the name, and by the authority of the good people of this state, that trial by jury, in all cases, in which it hath heretofore been used in the colony of New-York, shall be established, and remain inviolate forever: And that no acts of attainder shall be passed by the legislature of this state, for crimes other than those committed before the termination of the present war; and that such acts shall not work a corruption of blood. **AND FURTHER,** that the legislature ^{New courts.} of this state shall, at no time hereafter, institute any new court or courts, but such as shall proceed according to the course of the common law.

XLII. And this convention doth further, in the name and by the ^{Naturaliza-} ^{tion.} authority of the good people of this state, **ORDAIN, DETERMINE AND DECLARE,** That it shall be in the discretion of the legislature to naturalize all such persons, and in such manner, as they shall think proper: *Provided,* all such of the persons so to be by them naturalized, as, being born in parts beyond sea, and out of the United States of America, shall come to settle in, and become subjects of this state, shall take an oath of allegiance to this state, and abjure and renounce all allegiance and subjection to all and every foreign king, prince, potentate, and state, in all matters, ecclesiastical as well as civil. By order:

LEONARD GANSEVOORT, *Pres. pro tem.*

[The following has been published as an authentic list of the members elected to the convention which formed the preceding constitution. Its insertion here will gratify a laudable curiosity, while it will perpetuate the names of those to whose labors their country is indebted for one of the earliest written constitutions adopted by the American states. In the first or left hand column are placed the names of those who are found to have attended the convention at any time from the day the constitution was reported by the select committee till its adoption—that is, from the 6th of March to the 20th of April, 1777, inclusive. In the second or right hand column are placed those who are not found to have attended at all during that period, though they had been more or less in the convention before, and some of them were members of the select committee.

NEW-YORK.

Attending in March and April.

John Jay,
James Duane,
John Morrin Scott,
James Beekman,
Daniel Dunscomb,
Robert Harper,
Philip Livingston,
Abraham P. Lott,
Peter P. Van Zandt,

Not attending same time.

Jacobus Van Zandt,
Abraham Brashier,
Comfort Sands,
Henry Remsen,
Garrit Abeel,
John Broome.

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Anthony Rutgers,
Evert Bancker,
Isaac Stoutenbergh,
Isaac Roosevelt,
John Van Courtlandt,
William Denning.

15

ALBANY.

Abraham Ten Broeck,
Robert Yates,
Leonard Gansevoort,
Abraham Yates, jun.
John Ten Broeck,
John Tayler,
Peter R. Livingston,
Robert Van Rensselaer,
Matthew Adgate,
John I. Bleecker,
Jacob Cuyler.

11

DUTCHESS.

Robert R. Livingston,
Zephaniah Platt,
John Schenck,
Jonathan Landon,
Gilbert Livingston,
James Livingston,
Henry Schenck.

Nathaniel Sackett,
Dr. Crane,
Mr. Hopkins.

3

7

ULSTER.

Christopher Tappen,
Matthew Rea,
Matthew Cantine,
Charles De Witt,
Arthur Parks.

Levi Pawling,
Henry Wisner, jr.

2

5

WESTCHESTER.

Pierre Van Courtlandt,
Gouverneur Morris,
Gilbert Drake,
Lewis Graham,
— Lockwood,
Zebediah Mills,
Jonathan Platt,
Jonathan G. Tompkins.

Lewis Morris,
William Paulding,
Mr. Haveland.

3

8

ORANGE.

William Allison,
Henry Wisner,
Jeremiah Clarke,
Isaac Sherwood,
Joshua H. Smith.

John Haring,
Mr. Little,
David Pye,
Thomas Outwater.

4

5

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SUFFOLK.

William Smith,	Nathaniel Woodhull,	
Thomas Tredwell,	Thomas Deering,	
John Sloss Hobart,	David Gelston.	3
Matthias Burnet Miller,		
Ezra L'Hommedieu.		5

QUEENS.

Jonathan Lawrence.	1 Rev. Mr. Kettletts,	
	Samuel Townsend,	
	James Townsend,	
	Mr. Van Wyck,	
	Col. Blackwell.	5

TRYON.

William Harper,	
Isaac Paris,	
Mr. Veeder,	
John Moore,	
Benjamin Newkirk.	5

CHARLOTTE.

John Williams,	
Alexander Webster,	
William Duer.	3

CUMBERLAND.

Simeon Stephens.	1 Joseph Marsh,	
	John Sessions.	2

GLOUCESTER.

Jacob Bayley,	
Peter Olcott.	2

KINGS AND RICHMOND.

It does not appear from any entry on the journals, or from any papers now to be found, that the members elected in these two counties, (if any,) ever attended the provincial congress, or the convention, after the 30th June, 1776. Before that period Messrs. Bancker and Lawrence were in the provincial congress, from Richmond; and in the month of June, 1776, Messrs. Journey, Comer, and Cortelyou were occasionally attending from Richmond, and Messrs. Lefferts, Polhemus, and Couenhoven, from Kings.]

AMENDMENTS TO THE FORMER CONSTITUTION.

In Convention of the Delegates of the State of New-York.

ALBANY, OCTOBER 27, 1801.

WHEREAS the legislature of this state, by their act passed the sixth day of April last, did propose to the citizens of this state, to elect by ballot delegates to meet in convention, "for the purpose of considering the parts of the constitution of this state, respecting the number of senators and members of assembly in this state, and with power to reduce and limit the number of them as the said convention

FORMER CONSTITUTION OF

might deem proper ; and also for the purpose of considering and determining the true construction of the twenty-third article of the constitution of this state relative to the right of nomination to office ;”

AND WHEREAS the people of this state have elected the members of this convention for the purpose above expressed ; and this convention having maturely considered the subject thus submitted to their determination, do, in the name and by the authority of the people of this state, **ORDAIN, DETERMINE AND DECLARE :**

Number of members of assembly.

I. That the number of the members of the assembly hereafter to be elected, shall be one hundred, and shall never exceed one hundred and fifty.

To be apportioned by the legislature.

II. That the legislature at their next session, shall apportion the said one hundred members of the assembly among the several counties of this state, as nearly as may be, according to the number of electors which shall be found to be in each county by the census directed to be taken in the present year.

Number of senators reduced to 32, and the manner of reducing.

III. That from the first Monday in July next, the number of the senators shall be permanently thirty-two, and that the present number of senators shall be reduced to thirty-two in the following manner, that is to say : The seats of the eleven senators composing the first class, whose time of service will expire on the first Monday in July next, shall not be filled up : and out of the second class the seats of one senator from the middle district, and of one senator from the southern district, shall be vacated by the senators of those districts belonging to that class, casting lots among themselves ; out of the third class the seats of two senators from the middle district, and of one senator from the eastern district, shall be vacated in the same manner ; out of the fourth class the seats of one senator from the middle district, of one senator from the eastern district, and of one senator from the western district, shall be vacated in the same manner ; and if any of the said classes shall neglect to cast lots, the senate shall in such case proceed to cast lots for such class or classes so neglecting. And that eight senators shall be chosen at the next election in such districts as the legislature shall direct, for the purpose of apportioning the whole number of senators amongst the four great districts of this state, as nearly as may be, according to the number of electors qualified to vote for senators, which shall be found to be in each of the said districts by the census above mentioned ; which eight senators so to be chosen shall form the first class.

Mode of increasing the assembly till it arrives to 150, and the legislature to apportion senators and assemblymen.

IV. That from the first Monday in July next, and on the return of every census thereafter, the number of the assembly shall be increased at the rate of two members for every year, until the whole number shall amount to one hundred and fifty ; and that upon the return of every such census, the legislature shall apportion the senators and members of the assembly amongst the great districts and counties of this state, as nearly as may be, according to the number of their re-

spective electors: *Provided*, That the legislature shall not be prohibited by any thing herein contained, from allowing one member of assembly to each county, heretofore erected within this state.

V. And this convention do further, in the name and by the authority of the people of this state, **ORDAIN, DETERMINE AND DECLARE**, That by the true construction of the twenty-third article of the constitution of this state, the right to nominate all officers other than those who by the constitution are directed to be otherwise appointed, is vested concurrently in the person administering the government of this state for the time being, and in each of the members of the council of appointment. By order,

True construction of 23d article of the constitution declared

A. BURR,

President of the Convention, and Delegate from Orange County.

Attest,

JAMES VAN INGEN, }
JOSEPH CONSTANT, } Secretaries.

THE CONSTITUTION

OF THE STATE OF NEW-YORK.

WE, the people of the state of New-York, acknowledging with gratitude the grace and beneficence of God, in permitting us to make choice of our form of government, do establish this constitution.

ARTICLE FIRST.

SEC. I. The legislative power of this state, shall be vested in a Legislature. senate and an assembly.

SEC. II. The senate shall consist of thirty-two members. The senators shall be chosen for four years, and shall be freeholders. The assembly shall consist of one hundred and twenty-eight members, who shall be annually elected.

SEC. III. A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the qualifications of its own members. Each house shall choose its own officers; and the senate shall choose a temporary president, when the lieutenant-governor shall not attend as president, or shall act as governor.

SEC. IV. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days.

Senatorial
districts.

SEC. V. The state shall be divided into eight districts, to be called senate districts, each of which shall choose four senators.

No. 1.

The first district shall consist of the counties of Suffolk, Queens, Kings, Richmond, and New-York.

No. 2.

The second district, shall consist of the counties of Westchester, Putnam, Dutchess, Rockland, Orange, Ulster, and Sullivan.

No. 3.

The third district, shall consist of the counties of Greene, Columbia, Albany, Rensselaer, Schoharie, and Schenectady.

No. 4.

The fourth district, shall consist of the counties of Saratoga, Montgomery, Hamilton, Washington, Warren, Clinton, Essex, Franklin, and St. Lawrence.

No. 5.

The fifth district, shall consist of the counties of Herkimer, Oneida, Madison, Oswego, Lewis, and Jefferson.

No. 6.

The sixth district, shall consist of the counties of Delaware, Otsego, Chenango, Broome, Cortland, Tompkins, and Tioga.

No. 7.

The seventh district, shall consist of the counties of Onondaga, Cayuga, Seneca, and Ontario.

No. 8.

The eighth district, shall consist of the counties of Steuben, Livingston, Monroe, Genesee, Niagara, Erie, Allegany, Cattaraugus, and Chautauque.

Senators to be
divided into
classes.

And as soon as the senate shall meet, after the first election to be held in pursuance of this constitution, they shall cause the senators to be divided by lot, into four classes, of eight in each, so that every district shall have one senator of each class; the classes to be numbered, one, two, three, and four. And the seats of the first class, shall be vacated at the end of the first year; of the second class, at the end of the second year; of the third class, at the end of the third year; of the fourth class, at the end of the fourth year; in order that one senator be annually elected in each senate district.

Census when
to be taken.

SEC. VI. An enumeration of the inhabitants of the state, shall be taken, under the direction of the legislature, in the year one thousand eight hundred and twenty-five, and at the end of every ten years thereafter; and the said districts shall be so altered by the legislature, at the first session after the return of every enumeration, that each senate district shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens, paupers and persons of colour not taxed; and shall remain unaltered, until the return of another enumeration, and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a senate district.

Districts to be
altered.

The members
of assembly
to be apportioned.

SEC. VII. The members of the assembly, shall be chosen by counties, and shall be apportioned among the several counties of the state, as nearly as may be, according to the numbers of their respective inhabitants, excluding aliens, paupers, and persons of colour not taxed. An apportionment of members of assembly, shall be made by the legislature, at its first session after the return of every enumeration; and when made, shall remain unaltered until another enumeration

shall have been taken. But an apportionment of members of the assembly, shall be made by the present legislature, according to the last enumeration taken under the authority of the United States, as nearly as may be. Every county heretofore established, and separately organized, shall always be entitled to one member of the assembly; and no new county shall hereafter be erected, unless its population shall entitle it to a member.

Each county entitled to one member.

SEC. VIII. Any bill may originate in either house of the legislature; and all bills passed by one house, may be amended by the other.

Bills.

SEC. IX. The members of the legislature, shall receive for their services, a compensation to be ascertained by law, and paid out of the public treasury; but no increase of the compensation shall take effect, during the year in which it shall have been made. And no law shall be passed, increasing the compensation of the members of the legislature, beyond the sum of three dollars a day.

Pay of members.

SEC. X. No member of the legislature, shall receive any civil appointment from the governor and senate, or from the legislature, during the term for which he shall have been elected.

No member to receive appointments.

SEC. XI. No person, being a member of congress, or holding any judicial or military office under the United States, shall hold a seat in the legislature. And if any person, shall, while a member of the legislature, be elected to congress, or appointed to any office, civil or military, under the government of the United States; his acceptance thereof, shall vacate his seat.

Persons disqualified from being members.

SEC. XII. Every bill which shall have passed the senate and assembly, shall, before it become a law, be presented to the governor: if he approve, he shall sign it; but if not, he shall return it with his objections to that house in which it shall have originated; who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of the members present, it shall become a law. But in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for, and against, the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislature shall, by their adjournment, prevent its return; in which case it shall not be a law.

Bills to be presented to the governor.

If returned by him with objections, how disposed of.

Effect, if not returned within ten days.

SEC. XIII. All officers holding their offices during good behaviour may be removed by joint resolution, of the two houses of the legislature, if two-thirds of all the members elected to the assembly, and a majority of all the members elected to the senate, concur therein.

Certain officers may be removed by joint resolution.

Legislature when to meet.

SEC. XIV. The political year shall begin on the first day of January ; and the legislature shall every year, assemble on the first Tuesday of January, unless a different day shall be appointed by law.

Time of annual election.

SEC. XV. The next election for governor, lieutenant-governor, senators, and members of assembly, shall commence on the first Monday of November, one thousand eight hundred and twenty-two ; and all subsequent elections, shall be held at such time, in the month of October or November, as the legislature, shall by law, provide.

New officers.

SEC. XVI. The governor, lieutenant-governor, senators, and members of assembly, first elected under this constitution, shall enter on the duties of their respective offices, on the first day of January, one thousand eight hundred and twenty-three ; and the governor, lieutenant-governor, senators and members of assembly, now in office, shall continue to hold the same, until the first day of January, one thousand eight hundred and twenty-three, and no longer.

Existing officers.

ARTICLE SECOND.

Qualifications of electors.

SEC. I. Every male citizen, of the age of twenty-one years, who shall have been an inhabitant of this state one year preceding any election, and for the last six months a resident of the town or county where he may offer his vote ; and shall have, within the year next preceding the election, paid a tax to the state or county, assessed upon his real or personal property ; or shall by law be exempted from taxation ; or being armed and equipped according to law, shall have performed within that year, military duty in the militia of this state ; or who shall be exempted from performing militia duty in consequence of being a fireman in any city, town or village in this state : and also, every male citizen of the age of twenty-one years, who shall have been, for three years next preceding such election, an inhabitant of this state ; and for the last year, a resident in the town or county, where he may offer his vote ; and shall have been, within the last year, assessed to labor upon the public highways, and shall have performed the labor, or paid an equivalent therefor, according to law, shall be entitled to vote in the town or ward where he actually resides, and not elsewhere, for all officers that now are, or hereafter may be, elective by the people : but no man of colour, unless he shall have been for three years a citizen of this state, and for one year next preceding any election, shall be seised and possessed of a freehold estate of the value of two hundred and fifty dollars, over and above all debts and incumbrances charged thereon ; and shall have been actually rated, and paid a tax thereon, shall be entitled to vote at any such election. And no person of colour shall be subject to direct taxation unless he shall be seised, and possessed, of such real estate as aforesaid.

Freehold required for men of colour.

Who may be excluded.

SEC. II. Laws may be passed, excluding from the right of suffrage, persons who have been, or may be, convicted of infamous crimes.

SEC. III. Laws shall be made for ascertaining by proper proofs, Proofs of right to vote. the citizens who shall be entitled to the right of suffrage, hereby established.

SEC. IV. All elections by the citizens, shall be by ballot, except Elections to be by ballot. for such town officers as may by law be directed to be otherwise chosen.

ARTICLE THIRD.

SEC. I. The executive power shall be vested in a governor. He Executive power. shall hold his office for two years; and a lieutenant-governor, shall be chosen at the same time, and for the same term.

SEC. II. No person, except a native citizen of the United States, Qualifications of the governor. shall be eligible to the office of governor; nor shall any person be eligible to that office, who shall not be a freeholder, and shall not have attained the age of thirty years, and have been five years a resident within this state; unless he shall have been absent during that time, on public business of the United States, or of this state.

SEC. III. The governor and lieutenant-governor shall be elected at the times and places of choosing members of the legislature. Elections of governor and lt. governor. The persons respectively having the highest number of votes for governor and lieutenant-governor, shall be elected; but in case two or more shall have an equal and the highest number of votes for governor, or for lieutenant-governor, the two houses of the legislature, shall by joint ballot, choose one of the said persons so having an equal and the highest number of votes, for governor, or lieutenant-governor.

SEC. IV. The governor shall be general and commander in chief Duties and powers of the governor. of all the militia, and admiral of the navy of the state. He shall have power to convene the legislature, (or the senate only,) on extraordinary occasions. He shall communicate by message to the legislature at every session, the condition of the state; and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the legislature, and shall take care that the laws are faithfully executed. He shall, at stated times, receive for his services, a compensation His compensation. which shall neither be increased nor diminished, during the term for which he shall have been elected.

SEC. V. The governor shall have power to grant reprieves and Pardoning power. pardons after conviction, for all offences, except treason and cases of impeachment. Upon convictions for treason, he shall have power to suspend the execution of the sentence, until the case shall be reported to the legislature at its next meeting; when the legislature shall either pardon, or direct the execution of the criminal, or grant a farther reprieve.

SEC. VI. In case of the impeachment of the governor, or his removal When powers of the gov- from office, death, resignation, or absence from the state, the

governor devolves on the lieutenant-governor.

powers and duties of the office shall devolve upon the lieutenant-governor, for the residue of the term, or until the governor absent or impeached, shall return, or be acquitted. But when the governor shall, with the consent of the legislature, be out of the state, in time of war, at the head of a military force thereof, he shall still continue commander in chief of all the military force of the state.

President of the senate. To act as governor in certain cases.

SEC. VII. The lieutenant-governor shall be president of the senate, but shall have only a casting vote therein. If during a vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or be absent from the state, the president of the senate shall act as governor, until the vacancy shall be filled, or the disability shall cease.

ARTICLE FOURTH.

Manner of choosing or appointing militia officers.

SEC. I. Militia officers shall be chosen, or appointed as follows: captains, subalterns, and non-commissioned officers, shall be chosen by the written votes of the members of their respective companies. Field officers of regiments and separate battalions, by the written votes of the commissioned officers of the respective regiments, and separate battalions. Brigadier-generals, by the field officers of their respective brigades. Major-generals, brigadier-generals, and commanding officers of regiments or separate battalions, shall appoint the staff officers of their respective divisions, brigades, regiments, or separate battalions.

Officers to be appointed by the governor and senate.

SEC. II. The governor shall nominate, and with the consent of the senate, appoint all major-generals, brigade inspectors, and chiefs of the staff departments, except the adjutant-general, and commissary-general. The adjutant-general shall be appointed by the governor.

Election of militia officers.

SEC. III. The legislature, shall by law, direct the time and manner of electing militia officers, and of certifying their elections to the governor.

Officers how commissioned.

SEC. IV. The commissioned officers of the militia, shall be commissioned by the governor; and no commissioned officer shall be removed from office, unless by the senate on the recommendation of the governor, stating the grounds on which such removal is recommended, or by the decision of a court-martial, pursuant to law. The present officers of the militia shall hold their commission, subject to removal as before provided.

Election of militia officers may be abolished.

SEC. V. In case the mode of election and appointment of militia officers, hereby directed, shall not be found conducive to the improvement of the militia, the legislature may abolish the same, and provide by law for their appointment and removal, if two-thirds of the members present in each house, shall concur therein.

State officers how appointed.

SEC. VI. The secretary of state, comptroller, treasurer, attorney-general, surveyor-general, and commissary-general, shall be appointed

ed as follows: The senate and assembly shall each openly nominate one person for the said offices respectively: after which, they shall meet together, and if they shall agree in their nominations, the person so nominated shall be appointed to the office for which he shall be nominated. If they shall disagree, the appointment shall be made by the joint ballot of the senators and members of assembly. The treasurer shall be chosen annually. The secretary of state, comptroller, attorney-general, surveyor-general, and commissary-general, shall hold their offices for three years, unless sooner removed by concurrent resolution of the senate and assembly.

Terms of office.

SEC. VII. The governor shall nominate, by message, in writing, and with the consent of the senate, shall appoint, all judicial officers, except justices of the peace, who shall be appointed in manner following, that is to say: The board of supervisors in every county in this state, shall, at such times as the legislature may direct, meet together; and they, or a majority of them so assembled, shall nominate so many persons as shall be equal to the number of justices of the peace to be appointed in the several towns in the respective counties. And the judges of the respective county courts, or a majority of them, shall also meet and nominate a like number of persons; and it shall be the duty of the said board of supervisors, and judges of county courts, to compare such nominations, at such time and place, as the legislature may direct: And if on such comparison, the said boards of supervisors and judges of county courts, shall agree in their nominations, in all, or in part, they shall file a certificate of the nominations in which they shall agree, in the office of the clerk of the county; and the person or persons named in such certificates, shall be justices of the peace: And in case of disagreement in whole, or in part, it shall be the farther duty of the said boards of supervisors, and judges respectively, to transmit their said nominations, so far as they disagree in the same, to the governor, who shall select from the said nominations, and appoint so many justices of the peace, as shall be requisite to fill the vacancies.

Officers to be appointed by governor and senate.

Justices of peace, how appointed.

Every person appointed a justice of the peace, shall hold his office for four years, unless removed by the county court, for causes particularly assigned by the judges of the said court. And no justice of the peace shall be removed, until he shall have notice of the charges made against him, and an opportunity of being heard in his defence.

Term of office: how removed.

SEC. VIII. Sheriffs and clerks of counties, including the register and clerk of the city and county of New-York, shall be chosen by the electors of the respective counties, once in every three years, and as often as vacancies shall happen. Sheriffs shall hold no other office, and be ineligible for the next three years after the termination of their offices. They may be required by law, to renew their security, from time to time; and in default of giving such new security, their offices shall be deemed vacant. But the county shall never be made respon-

Sheriffs, clerks of counties and register and clerk of N. Y.

Security

How removed. **SEC. VIII.** Responsible for the acts of the sheriff: and the governor may remove any such sheriff, clerk, or register, at any time within the three years for which he shall be elected, giving to such sheriff, clerk, or register, a copy of the charge against him, and an opportunity of being heard in his defence, before any removal shall be made.

Clerks of courts, and district attorneys. **SEC. IX.** The clerks of courts, except those clerks whose appointment is provided for in the preceding section, shall be appointed by the courts of which they respectively are clerks; and district attorneys, by the county courts. Clerks of courts and district attorneys, shall hold their offices for three years, unless sooner removed by the courts appointing them.

Mayors of cities. **SEC. X.** The mayors of all the cities in this state shall be appointed annually, by the common councils of the respective cities.

Coroners. **SEC. XI.** So many coroners as the legislature may direct, not exceeding four in each county, shall be elected in the same manner as sheriffs, and shall hold their offices for the same term, and be removable in like manner.

Masters and examiners in chancery. **SEC. XII.** The governor shall nominate, and with the consent of the senate, appoint masters and examiners in chancery; who shall hold their offices for three years, unless sooner removed by the senate, on the recommendation of the governor. The registers and assistant registers, shall be appointed by the chancellor, and hold their offices during his pleasure.

Clerk of oyer and terminer and N. Y. **SEC. XIII.** The clerk of the court of oyer and terminer, and general sessions of the peace, in and for the city and county of New-York, shall be appointed by the court of general sessions of the peace in said city, and hold his office during the pleasure of the said court: and such clerks and other officers of courts, whose appointment is not herein provided for, shall be appointed by the several courts, or by the governor, with the consent of the senate, as may be directed by law.

Other officers. **SEC. XIV.** The special justices, and the assistant justices, and their clerks, in the city of New-York, shall be appointed by the common council of the said city; and shall hold their offices for the same term, that the justices of the peace, in the other counties of this state, hold their offices, and shall be removable in like manner.

Special and assistant justices and clerks in N. Y. **SEC. XV.** All officers heretofore elective by the people, shall continue to be elected; and all other officers, whose appointment is not provided for, by this constitution, and all officers, whose offices may be hereafter created by law, shall be elected by the people, or appointed, as may by law be directed.

Officers to be elected or appointed. **SEC. XVI.** Where the duration of any office is not prescribed by this constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment.

Duration of offices.

ARTICLE FIFTH.

SEC. I. The court for the trial of impeachments, and the correction of errors, shall consist of the president of the senate, the senators, the chancellor, and the justices of the supreme court, or the major part of them; but when an impeachment shall be prosecuted against the chancellor, or any justice of the supreme court, the person so impeached, shall be suspended from exercising his office, until his acquittal; and when an appeal from a decree in chancery shall be heard, the chancellor shall inform the court of the reasons for his decree, but shall have no voice in the final sentence; and when a writ of error shall be brought, on a judgment of the supreme court, the justices of that court, shall assign the reasons for their judgment, but shall not have a voice for its affirmance or reversal.

Court for the trial of impeachments and the correction of errors.

SEC. II. The assembly shall have the power of impeaching all civil officers of this state for mal and corrupt conduct in office, and for high crimes and misdemeanors: but a majority of all the members elected, shall concur in an impeachment. Before the trial of an impeachment, the members of the court shall take an oath or affirmation, truly and impartially to try and determine the charge in question, according to evidence; and no person shall be convicted, without the concurrence of two-thirds of the members present. Judgment, in cases of impeachment, shall not extend farther than the removal from office, and disqualification to hold, and enjoy, any office of honor, trust or profit, under this state; but the party convicted, shall be liable to indictment, and punishment, according to law.

Power of impeachment vested in the assembly

SEC. III. The chancellor and justices of the supreme court, shall hold their offices during good behavior, or until they shall attain the age of sixty years.

Chancellor &c.

SEC. IV. The supreme court shall consist of a chief justice, and two justices, any of whom may hold the court.

Supreme court.

SEC. V. The state shall be divided, by law, into a convenient number of circuits, not less than four, nor exceeding eight, subject to alteration, by the legislature, from time to time, as the public good may require; for each of which, a circuit judge shall be appointed, in the same manner, and hold his office by the same tenure, as the justices of the supreme court; and who shall possess the powers of a justice of the supreme court at chambers, and in the trial of issues joined in the supreme court; and in courts of oyer and terminer, and gaol delivery. And such equity powers may be vested in the said circuit judges, or in the county courts, or in such other subordinate courts, as the legislature may by law direct, subject to the appellate jurisdiction of the chancellor.

Circuit judges.

SEC. VI. Judges of the county courts, and recorders of cities shall hold their offices for five years, but may be removed by the senate, on the recommendation of the governor, for causes to be stated in such recommendation.

Judges of county courts, &c.

Chancellor
and judges
to hold no
other office.

SEC. VII. Neither the chancellor, nor justices of the supreme court, nor any circuit judge, shall hold any other office or public trust. All votes for any elective office, given by the legislature or the people, for the chancellor, or a justice of the supreme court, or circuit judge, during his continuance in his judicial office, shall be void.

ARTICLE SIXTH.

Oath of of-
fice prescrib-
ed.

SEC. I. Members of the legislature, and all officers, executive and judicial, except such inferior officers as may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation :

I do solemnly swear, (or affirm, as the case may be,) that I will support the constitution of the United States, and the constitution of the state of New-York ; and that I will faithfully discharge the duties of the office of _____ according to the best of my ability.

And no other oath, declaration, or test, shall be required as a qualification for any office or public trust.

ARTICLE SEVENTH.

No person to
be disfran-
chised.

SEC. I. No member of this state shall be disfranchised, or deprived of any of the rights or privileges, secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.

Trial by jury.
New courts.

SEC. II. The trial by jury, in all cases in which it has been heretofore used, shall remain inviolate forever ; and no new court shall be instituted, but such as shall proceed according to the course of the common law ; except such courts of equity, as the legislature is herein authorised to establish.

Free enjoy-
ment of reli-
gious wor-
ship.

SEC. III. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this state, to all mankind ; but the liberty of conscience hereby secured, shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace, or safety of this state.

Ministers of
the gospel to
hold no of-
fice.

SEC. IV. AND WHEREAS, the ministers of the gospel are, by their profession, dedicated to the service of God, and the cure of souls, and ought not to be diverted from the great duties of their functions ; therefore, no minister of the gospel, or priest of any denomination whatsoever, shall at any time hereafter, under any pretence or description whatever, be eligible to, or capable of holding, any civil or military office or place within this state.

Militia to be
armed and
disciplined.

SEC. V. The militia of this state, shall, at all times hereafter, be armed and disciplined, and in readiness for service ; but all such inhabitants of this state, of any religious denomination whatever, as from scruples of conscience, may be averse to bearing arms, shall be excused therefrom, by paying to the state an equivalent in money ;

and the legislature shall provide by law, for the collection of such equivalent, to be estimated according to the expense, in time, and money, of an ordinary, able-bodied militia-man.

SEC. VI. The privilege of the writ of habeas corpus, shall not be suspended, unless when in cases of rebellion, or invasion, the public safety may require its suspension. Writ of habeas corpus.

SEC. VII. No person shall be held to answer for a capital or otherwise infamous crime, (except in cases of impeachment; and in cases of the militia, when in actual service, and the land and naval forces in time of war, or which this state may keep, with the consent of congress, in time of peace; and in cases of petit larceny, under the regulation of the legislature;) unless on presentment, or indictment of a grand jury; and in every trial on impeachment or indictment, the party accused shall be allowed counsel as in civil actions. No person shall be subject, for the same offence, to be twice put in jeopardy of life or limb; nor shall he be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty or property, without due process of law: nor shall private property be taken for public use, without just compensation. Proceedings in criminal cases. Property secured.

SEC. VIII. Every citizen may freely speak, write, and publish his sentiments, on all subjects, being responsible for the abuse of that right; and no law shall be passed, to restrain, or abridge the liberty of speech, or of the press. In all prosecutions or indictments for libels, the truth may be given in evidence, to the jury; and if it shall appear to the jury, that the matter charged as libellous, is true, and was published with good motives, and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact. Freedom of speech and of the press secured.

SEC. IX. The assent of two-thirds of the members elected to each branch of the legislature, shall be requisite to every bill appropriating the public monies or property, for local or private purposes, or creating, continuing, altering, or renewing, any body politic or corporate. Two-third bills.

SEC. X. The proceeds of all lands belonging to this state, except such parts thereof as may be reserved or appropriated to public use, or ceded to the United States, which shall hereafter be sold or disposed of, together with the fund denominated the common school fund, shall be and remain a perpetual fund; the interest of which, shall be inviolably appropriated and applied, to the support of common schools throughout this state. Rates of toll, not less than those agreed to, by the canal commissioners, and set forth in their report to the legislature of the twelfth of March, one thousand eight hundred and twenty-one, shall be imposed on, and collected from all parts of the navigable communications between the great western and northern lakes, and the Atlantic ocean, which now are, or hereafter shall be made and completed: and the said tolls, together with the duties on the manufacture of all salt, as established by the act of the fifteenth Common school fund. Rates of toll.

of April, one thousand eight hundred and seventeen ; and the duties on goods sold at auction, excepting therefrom, the sum of thirty-three thousand five hundred dollars, otherwise appropriated by the said act ; and the amount of the revenue, established by the act of the legislature of the thirtieth of March, one thousand eight hundred and twenty, in lieu of the tax upon steam-boat passengers ; shall be and remain inviolably appropriated and applied to the completion of such navigable communications, and to the payment of the interest, and reimbursement of the capital, of the money already borrowed, or which hereafter shall be borrowed, to make and complete the same.

Rates of toll, &c. not to be reduced till canal debt is paid.

And neither the rates of toll on the said navigable communications ; nor the duties on the manufacture of salt aforesaid ; nor the duties on goods sold at auction, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen ; nor the amount of the revenue, established by the act of March the thirtieth, one thousand eight hundred and twenty, in lieu of the tax upon steam-boat passengers ; shall be reduced or diverted, at any time before the full and complete payment of the principal and interest of the money borrowed, or to be borrowed, as aforesaid. And the legislature shall never sell, or dispose of the salt springs belonging to this state, nor the lands contiguous thereto, which may be necessary, or convenient, for their use, nor the said navigable communications, or any part or section thereof ; but the same shall be and remain the property of this state.

Salt springs never to be sold.

Lotteries prohibited.

SEC. XI. No lottery shall hereafter be authorised in this state ; and the legislature shall pass laws to prevent the sale of all lottery tickets within this state, except in lotteries already provided for by law.

Purchases of lands from Indians.

SEC. XII. No purchase or contract for the sale of lands in this state, made since the fourteenth day of October, one thousand seven hundred and seventy-five, or which may hereafter be made, of, or with the Indians in this state, shall be valid, unless made under the authority, and with the consent of the legislature.

Parts of the common law and acts of the colonial legislature, &c. declared law.

SEC. XIII. Such parts of the common law, and of the acts of the legislature of the colony of New-York, as together did form the law of the said colony, on the nineteenth day of April, one thousand seven hundred and seventy-five, and the resolutions of the congress of the said colony, and of the convention of the state of New-York, in force on the twentieth day of April, one thousand seven hundred and seventy-seven, which have not since expired, or been repealed, or altered ; and such acts of the legislature of this state, as are now in force, shall be and continue the law of this state, subject to such alterations as the legislature shall make concerning the same. But all such parts of the common law, and such of the said acts, or parts thereof, as are repugnant to this constitution, are hereby abrogated.

Certain grants of lands made

SEC. XIV. All grants of land within this state, made by the king of Great Britain, or persons acting under his authority, after the four-

teenth day of October, one thousand seven hundred and seventy-five, shall be null and void: but nothing contained in this constitution, shall affect any grants of land within this state, made by the authority of the said king or his predecessors, or shall annul any charters to bodies politic and corporate, by him or them made, before that day: or shall affect any such grants or charters since made by this state, or by persons acting under its authority; or shall impair the obligation of any debts contracted by the state, or individuals, or bodies corporate, or any other rights of property, or any suits, actions, rights of action, or other proceedings in courts of justice.

by the king of Great Britain declared void.

Certain rights not affected.

ARTICLE EIGHTH.

SEC. I. Any amendment, or amendments to this constitution, may be proposed in the senate or assembly, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments, shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature then next to be chosen; and shall be published, for three months previous to the time of making such choice; and, if in the legislature next chosen as aforesaid, such proposed amendment, or amendments, shall be agreed to, by two-thirds of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment, or amendments, to the people, in such manner, and at such time, as the legislature shall prescribe: and if the people shall approve and ratify such amendment, or amendments, by a majority of the electors qualified to vote for members of the legislature, voting thereon, such amendment, or amendments, shall become part of the constitution.

Provision for future amendments to this constitution.

ARTICLE NINTH.

SEC. I. This constitution shall be in force, from the last day of December, in the year one thousand eight hundred and twenty-two. But all those parts of the same, which relate to the right of suffrage; the division of the state, into senate-districts; the number of members of the assembly to be elected, in pursuance of this constitution; the apportionment of members of assembly; the elections hereby directed to commence on the first Monday of November, in the year one thousand eight hundred and twenty-two; the continuance of the members of the present legislature in office, until the first day of January, in the year one thousand eight hundred and twenty-three; and the prohibition against authorising lotteries; the prohibition against appropriating the public monies, or property, for local or private purposes, or creating, continuing, altering, or renewing any body politic or corporate, without the assent of two-thirds of the members elected to each branch of the legislature, shall be in force, and take effect, from the last day of February next. The members of the

When constitution takes effect.

present legislature, shall, on the first Monday of March next, take and subscribe an oath or affirmation, to support this constitution, so far as the same shall then be in force. Sheriffs, clerks of counties, and coroners, shall be elected at the election hereby directed to commence on the first Monday of November, in the year one thousand eight hundred and twenty-two; but they shall not enter on the duties of their offices, before the first day of January then next following. The commissions of all persons holding civil offices on the last day of December, one thousand eight hundred and twenty-two, shall expire on that day; but the officers then in commission, may respectively continue to hold their said offices until new appointments, or elections shall take place under this constitution.

When present commissions expire.

Election laws.

SEC. II. The existing laws relative to the manner of notifying holding, and conducting elections, making returns, and canvassing votes, shall be in force, and observed in respect to the elections hereby directed to commence on the first Monday of November, in the year one thousand eight hundred and twenty-two; so far as the same are applicable. And the present legislature shall pass such other and further laws, as may be requisite for the execution of the provisions of this constitution, in respect to elections.

Done in convention, at the Capitol in the city of Albany, the tenth day of November, in the year one thousand eight hundred and twenty-one, and of the independence of the United States of America, the forty-sixth. In witness whereof, we have hereunto subscribed our names.

DANIEL D. TOMPKINS,

President, and delegate from the county of Richmond.

JOHN F. BACON,
SAMUEL S. GARDINER, } Secretaries.

[The following delegates composed the convention which framed the foregoing constitution.

SUFFOLK.
Usher H. Moore,
Ebenezer Sage,
Joshua Smith.

QUEENS.
Rufus King,
Nath'l. Seaman,
Elbert H. Jones.*

KINGS.
John Lefferts.

RICHMOND.
Daniel D. Tompkins.

NEW-YORK.
Jacobus Dyckman,

Ogden Edwards,
James Fairlie,
Jno. L. Lawrence,
William Paulding, jun.
Jacob Radcliff,
Nathan Sanford,
Peter Sharpe,
Peter Stagg,
P. H. Wendover,
H. Wheaton.

WESTCHESTER.
Peter A. Jay,*
Peter Jay Monro,
Jonathan Ward.

THE STATE OF NEW-YORK.

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- FUTNAM.**
Joel Frost.
- DUTCHESS.**
Elisha Barlow,
Isaac Hunting,
Peter R. Livingston,
Abraham H. Schenck,
James Tallmadge, jun.
- ROCKLAND.**
Samuel G. Verbruyck.
- ORANGE.**
John Duer,
John Hallock, jun.
Peter Milliken,
Benjamin Woodward.
- ULSTER AND SULLIVAN.**
Daniel Clark,
Jonathan Dubois,
James Hunter,
Henry Jansen. †
- GREENE.**
Jehiel Tuttle,
Alpheus Webster.*
- COLUMBIA.**
Francis Sylvester,*
William W. Van Ness,*
Jacob R. Van Rensselaer,*
Elisha Williams.*
- ALBANY.**
James Kent,*
Ambrose Spencer,*
Stephen Van Rensselaer,*
Abraham Van Vechten.*
- RENSSELAER.**
Jirah Baker,
David Buel, jun.
James L. Hogeboom,
John Reeve,
John W. Woods.
- SCHOHARIE.**
Olney Briggs,
Asa Starkweather,
Jacob Sutherland.
- SCHENECTADY.**
John Sanders,*
Henry Yates, jun.
- SARATOGA.**
Salmon Child,
John Cramer,
Jeremy Rockwell,
- Samuel Young.
- MONTGOMERY.**
Wm. Irving Dodge,
Howland Fish,*
Jacob Hees,*
Philip Rhineland, jun.*
Alex'r. Sheldon.
- WASHINGTON AND WARREN.**
Alexander Livingston,
Nathaniel Pitcher,
John Richards,
Wm. Townsend,
Melancton Wheeler.
- ESSEX.**
Reuben Sanford.
- CLINTON AND FRANKLIN.**
Nathan Carver.
- ST. LAWRENCE.**
Jason Fenton.
- HERKIMER.**
Sanders Lansing,
Richard Van Horne,*
Sherman Wooster.
- ONEIDA.**
Ezekiel Bacon,
Samuel S. Breese,*
Henry Huntington,
Jonas Platt,*
Nathan Williams.
- MADISON.**
Barak Beckwith,
John Knowles,
Edward Rogers.
- LEWIS.**
Ela Collins.
- JEFFERSON.**
Hiram Steele,
Egbert Ten Eyck.
- DELAWARE.**
Robert Clarke,*
Erastus Root.
- OTSEGO.**
Joseph Clyde,
Ransom Hunt,
William Park,
David Tripp,
Martia Van Buren.
- CHENANGO.**
Thomas Humphrey,*
Jarvis K. Pike,

CONSTITUTION OF

Nathan Taylor.

BROOME.

Charles Pumpelly.

CORTLAND.

Samuel Nelson.

TOMPKINS.

Richard Smith,

Richard Townley.

TIOGA.

Matthew Carpenter.

ONEIDA.

Victory Birdseye,

Ameri Case,

Asa Eastwood,

Parley E. Howe.

CAYUGA.

David Brinkerhoff,

Rowland Day,*

Augustus F. Ferris.

SENECA.

Rob't. S. Rose,

John Seely.

ONYARSO.

Micah Brooks.

John Price,*

Philetus Swift,

David Sutherland,*

Joshua Van Fleet.

STEPHEN AND ALLEGANY.

Timothy Hurd,

James M'Call.

LIVINGSTON.

James Rosebrugh.

MONROE.

John Bowman.

GENESEE.

David Burroughs,

John Z. Ross,

Elizur Webster.

ERIE, NIAGARA, &C.

Augustus Porter,

Samuel Russell.

[The foregoing constitution was ratified by the people, at an election held in the several towns and wards of this state, on the fifteenth, sixteenth, and seventeenth days of January, one thousand eight hundred and twenty-two.]

AMENDMENTS.

[The following amendments to the constitution were proposed by the legislature in 1825, were referred to the legislature of 1826, agreed to by two-thirds of the members elected to each house of that legislature, submitted to the people, and approved and ratified at an election held on the sixth, seventh, and eighth days of November, 1826.]

FIRST AMENDMENT.

Justices of
the peace,
how elected.

That the people of this state in their several towns, shall at their annual election, and in such manner as the legislature shall direct, elect by ballot their justices of the peace, and the justices so elected in any town shall immediately thereafter meet together, and in presence of the supervisor and town clerk of the said town, be divided by lot into four classes, of one in each class, and be numbered one, two, three, and four; and the office of number one shall expire at the end of the first year, of number two at the end of the second year, of number three at the end of the third year, and of number four at the end of the fourth year, in order that one justice may thereafter be annually elected; and that so much of the seventh section of the fourth article of the constitution of this state as is inconsistent with this amendment, be abrogated.

* Pursuant to a resolution of the convention, the constitution was signed by all the members except those whose names are designated by an asterisk. † Mr. Jansen died during the sitting of the convention.

SECOND AMENDMENT.

That so much of the first section of the second article of the constitution as prescribes the qualifications of voters, other than persons of colour, be and the same is hereby abolished, and that the following be substituted in the place thereof:

Every male citizen of the age of twenty-one years, who shall have been an inhabitant of this state, one year next preceding any election, and for the last six months a resident of the county where he may offer his vote, shall be entitled to vote in the town or ward where he actually resides, and not elsewhere, for all officers that now are, or hereafter may be elective by the people.

REVISED STATUTES
OF THE
STATE OF NEW-YORK.

PART I.

AN ACT

**Concerning the territorial limits and divisions, the
civil polity, and the internal administration of
this State.**

WHEREAS it is expedient that the several statutes of this state, relating to its territorial limits and divisions, its civil polity, and its internal administration, should be consolidated and arranged in appropriate chapters, titles and articles; that the language thereof should be simplified; and that omissions and other defects should be supplied and amended: Therefore,

The People of the State of New-York, represented in Senate and Assembly, do declare and enact as follows:—

CHAPTER I.

**Of the Boundaries of the State and its Territorial
Jurisdiction.**

TITLE 1.—Of the boundaries of the State.

TITLE 2.—Of the Sovereignty and jurisdiction of the State.

TITLE 3.—Of the places ceded to the United States.

TITLE I.

OF THE BOUNDARIES OF THE STATE.

Sec. 1. Description of the boundaries of the state.

SECTION 1. It being deemed useful for the information of the citizens and officers of this state, that its boundaries, so far as its jurisdiction is now asserted, should be declared, it is therefore declared, that the state of New-York is bounded as follows: Beginning at Lyon's point in the mouth of a brook or river called Byram river,

Proandis.
Boundaries.

TITLE 1. where it falls into Long-Island Sound, and running thence up along said river to a rock at the ancient road or wading place in said river, which rock bears north twelve degrees and forty-five minutes east, five hundred and fifty rods from said point; then north twenty-three degrees and forty-five minutes west, two thousand two hundred and ninety-two rods; then east-north-east thirteen miles and sixty-four rods, which lines were established in the year one thousand seven hundred and twenty-five, by Francis Harrison, Cadwallader Colden, and Isaac Hicks, commissioners on the part of the then province of New-York, and Jonathan Law, Samuel Eells, Roger Wolcott, John Copp, and Edmund Lewis, commissioners on the part of the then colony of Connecticut, and were run as the magnetic needle then pointed: then along an east-north-east continuation of the last mentioned course, one mile three quarters of a mile and twenty-one rods, to a monument erected in the year one thousand seven hundred and thirty-one, by Cadwallader Colden, Gilbert Willet, Vincent Matthews and Jacobus Bruyn junior, commissioners on the part of said province, and Samuel Eells, Roger Wolcott and Edmund Lewis, commissioners on the part of said colony; which said monument is at the south-east corner of a tract, known and distinguished as the oblong or equivalent lands; then north twenty-four degrees and thirty minutes west, until intersected by a line run by said last mentioned commissioners on a course south twelve degrees and thirty minutes west, from a monument erected by them in the south bounds of Massachusetts; which monument stands in a valley in the Taghkanick mountains, one hundred and twenty-one rods eastward from a heap of stones, in said bounds on the top or ridge of the most westerly of said mountains; then north twelve degrees and thirty minutes east, from a monument, erected by said last mentioned commissioners at said place of intersection and standing on the north side of a hill south-easterly from the easternmost end of the long pond, along the aforesaid line to the aforesaid monument erected in the south bounds of Massachusetts, being the northeast corner of the oblong; then west nine degrees south along the north bounds of the oblong, one mile three quarters of a mile twenty-one rods and five links, to a monument erected by said commissioners at the northwest corner of the oblong, and at the distance of twenty miles from Hudson's river; which four last mentioned lines were established by said last mentioned commissioners, and were run by them as the magnetic needle pointed in the year one thousand seven hundred and thirty-one; then north fifteen degrees twelve minutes and nine seconds east, along the line established in the year one thousand seven hundred and eighty-seven, by Thomas Hutchins, John Ewing, and David Rittenhouse, commissioners appointed by the United States in congress assembled, fifty miles forty-one chains and seventy-nine links, to a red or black

Eastern.

oak tree marked by said commissioners, which said line was run by said last mentioned commissioners as the magnetic needle pointed in the year one thousand seven hundred and eighty-seven; then north eighty-two degrees and twenty minutes west, as the magnetic needle pointed in the year one thousand eight hundred and fourteen, fifty chains to a monument erected for the south-west corner of the state of Vermont, by Smith Thompson, Simeon De Witt and George Tibbits, commissioners on the part of this state, and Joseph Beeman junior, Henry Olin and Joel Pratt second, commissioners on the part of the state of Vermont, which monument stands on the brow of a high hill, descending to the west; then northerly in a straight line to a point which is distant ten chains, on a course south thirty-five degrees west, from the most westerly corner of a lot of land distinguished in the records of the town of Pownal, in the state of Vermont, as the fifth division of the right of Gamaliel Wallace, and which in the year one thousand eight hundred and fourteen, was owned and occupied by Abraham Vosburgh; then north thirty-five degrees east, to said corner, and along the westerly bounds of said lot, thirty chains to a place on the westerly bank of Hosick river, where a hemlock tree heretofore stood, noticed in said records as the most northerly corner of said lot; then north one degree and twenty minutes west, six chains to a monument erected by the said commissioners, standing on the westerly side of Hosick river on the north side of the highway leading out of Hosick into Pownal, and near the north-westerly corner of the bridge crossing said river; then north twenty-seven degrees and twenty minutes east, thirty chains through the bed of the said river, to a large roundish rock on the north-easterly bank thereof; then north twenty-five degrees west, sixteen chains and seventy links; then north nine degrees west, eighteen chains and sixty links to a white oak tree at the southwest corner of the land occupied in one thousand eight hundred and fourteen, by Thomas Wilsey; then north eleven degrees east, seventy-seven chains to the north side of a highway, where it is met by a fence dividing the possession of said Thomas Wilsey junior, and Emery Hunt; then north forty-six degrees east, six chains; then south sixty-six degrees east, twenty-six chains and twenty-five links; then north nine degrees east, twenty-seven chains and fifty links, to a blue slate stone anciently set up for the southwest corner of Bennington; then north seven degrees and thirty minutes east, forty-six miles forty-three chains and fifty links to a bunch of hornbeam saplings on the south bank of Poultney river, the northernmost of which was marked by said last mentioned commissioners, and from which a large butternut tree bears north seventy degrees west, thirty links, a large hard maple tree south two chains and eighty-six links, and a white ash tree on the north side of said river, north seventy-seven degrees east; which said several lines from the

TITLE 1.



TITLE 1. monument erected for the southwest corner of the state of Vermont, were established by said last mentioned commissioners, and were run by them as the magnetic needle pointed in the year one thousand eight hundred and fourteen; then down the said Poultney river through the deepest channel thereof, to East Bay; then through the middle of the deepest channel of East Bay and the waters thereof, to where the same communicate with Lake Champlain; then through the middle of the deepest channel of Lake Champlain to the eastward of the islands called the Four Brothers, and the westward of the islands called the Grand Isle and Long Isle, or the two Heroes, and to the westward of the Isle-La-Mott, to the line in the forty-fifth degree of north latitude, established by treaty for the boundary line between the

Northern. United States and the British dominions; then west along said line to the river St. Lawrence; then along the line established by the commissioners appointed under the sixth article of the treaty of Ghent, into and up the said river St. Lawrence to the waters of Lake Ontario; then along the said line through the waters of said lake and of the

Western. Niagara river to the waters of Lake Erie; then westerly through the same, and along the said line, until intersected by a meridian line drawn through the most westerly bent or inclination of Lake Ontario; then south along said meridian line to a monument in the beginning of the forty-third degree of north latitude, erected in the year one thousand seven hundred and eighty-seven, by Abraham Hardenburgh and William W. Morris, commissioners on the part of this state, and Andrew Ellicott and Andrew Porter, commissioners on the part of the state of Pennsylvania, for the purpose of marking the termination of the line of jurisdiction between this state and the said state of

Southern. Pennsylvania; then east along the line established and marked by said last mentioned commissioners to the ninetieth milestone in the same parallel of latitude, erected in the year one thousand seven hundred and eighty-six, by James Clinton and Simeon De Witt, commissioners on the part of this state, and Andrew Ellicott, commissioner on the part of Pennsylvania, which said ninetieth milestone stands on the western side of the south branch of the Tioga river; then east along the line established and marked by said last mentioned commissioners, to a stone erected in the year one thousand seven hundred and seventy-four on a small island in the Delaware river, by Samuel Holland and David Rittenhouse, commissioners on the part of the colonies of New-York and Pennsylvania, for the purpose of marking the beginning of the forty-third degree of north latitude; then down along said Delaware river to a point opposite to the fork or branch formed by the junction of the stream called Mahackamack with the said Delaware river, in the latitude of forty-one degrees twenty-one minutes and thirty-seven seconds north; then in a straight line to the termination, on the east bank of the Delaware river, of a line run in the year one thousand seven hundred and seventy-four, by

William Wickham and Samuel Gale, commissioners on the part of the then colony of New-York, and John Stevens and Walter Rutherford, commissioners on the part of the then colony of New-Jersey; then along said line to a rock on the west side of Hudson's river, in the latitude of forty-one degrees north, marked by said commissioners; then southerly along the west shore, at low water mark, of Hudson's river, of the Kill Van Kull, of the sound between Staten Island and New-Jersey, and of Rariton Bay, to Sandy Hook; and then to the place of beginning, in such manner as to include Staten Island, and the islands of meadow on the west side thereof, Shooter's Island, Long Island, the Isle of Wight, now called Gardiner's Island, Fisher's Island, Shelter Island, Plumb Island, Robin's Island, Ram Island, the Gull Islands, and all the islands and waters in the bay of New-York, and within the bounds above described.¹

TITLE 2.

TITLE II.

OF THE SOVEREIGNTY AND JURISDICTION OF THE STATE.

Sec. 1. To what places they extend.

2. Duty of governor and subordinate officers to defend them.

3. Governor to employ counsel to defend suits concerning the sovereignty and jurisdiction of the state.

4. District attorney to report to governor persons intruding upon lands, under pretence of title inconsistent therewith.

5. Such persons to be removed by sheriff.

§ 1. The sovereignty and jurisdiction of this state extend to all the places within the boundaries thereof, as declared in the preceding Title; but the extent of such jurisdiction over places that have been or may be ceded to the United States, shall be qualified by the terms of such cession.²

§ 2. It shall be the duty of the governor, and of all the subordinate officers of the state, to maintain and defend its sovereignty and jurisdiction.³

§ 3. If any suit shall be instituted against this state, or against any person deriving title therefrom, to recover any lands within this state, under pretence of any claim inconsistent with its sovereignty and jurisdiction, the governor, at the expense of this state, shall employ counsel and provide for the defence of such suit.⁴

§ 4. If any person, under such pretence, shall intrude upon any of the waste or ungranted lands of this state, it shall be the duty of the district attorney of the county, immediately to report the same to the governor, who shall thereupon, by a written order, direct the sheriff of the county to remove from said lands the person so intruding.⁵

(1) Compiled from documents in the office of the secretary of state. (2) (3) (4) (5) Printed on 1 R. L. 137; Id. 285; and laws of 1849, p. 302.

TITLE 3.

Duty of sheriff

§ 5. The sheriff shall execute such order; and in case of resistance made or threatened, he may call to his aid the power of the county, as in cases of resistance to the writs of the people⁶.

TITLE III.

OF THE PLACES CEDED TO THE UNITED STATES.

- Sac. 1. Turtle Hill, a tract at Montock Point, Suffolk county; effect of the cession.
2. Tract of ten acres at Eaton's neck in the town of Huntington, Suffolk county; effect of the cession.
3. Bedlow's, Ellis and Governor's Islands, in and about the harbor of New-York; effect of the cession.
4. Little and Great Gull Islands in the county of Suffolk; effect of the cession.
5. Sand's Point in the town of North-Hempstead, Queens county; effect of the cession.
6. Tract at Bluff Point on Staten Island; effect of the cession.
7. Two tracts of land and water in the city of New-York; effect of the cession.
8. Tract of land covered with water at Wallabout bay; effect of the cession.
9. Half of an acre in Buffalo, Erie county; effect of the cession.
10. Tract in Greenbush, Rensselaer county; effect of the cession.
11. Thirty acres of land under water at New-Utrecht, Kings county; effect of the cession.
12. Tract of land in the village of Rome, Oneida county; effect of the cession.
13. Lots 61, 62, 63, 64, 65 and 66, at Rouse's Point, Clinton county; effect of the cession.
14. Tract of five acres at head of Galoo Island in lake Ontario; effect of the cession.
15. Island Point, near Rouse's Point, on lake Champlain; effect of the cession.
16. Tract of six acres at mouth of Oswego river, in Oswego river; effect of the cession.
17. Tract of three acres and one hundred and fifteen rods, at mouth of Genesee river, in the town of Greece, county of Monroe; effect of the cession.
18. Tract in Sodus, in the county of Wayne; effect of the cession.
19. Effect of the cession as to lands described in the five last sections.
20. Tract of land at Oldfield on Long Island Sound, Suffolk county; effect of the cession.
21. Two tracts lying in New-Utrecht in Kings county; effect of the cession.
22. Tract of land in Islip, Suffolk county; effect of the cession.
23. Tract of land in Haverstraw, Rockland county; effect of the cession.
24. Effect of the cession as to lands described in the four last sections.
25. Tract of land in Cornwall, Orange county; effect of the cession.
26. Tract at Tibbits' Point in Lyme, Jefferson county.
27. Tract at the west end of Plumb Island, Suffolk county.
28. Tract in the town of Westfield and county of Richmond.
29. Tract on Staten Island.

Montock Point, in Suffolk county.

§ 1. The United States have jurisdiction over a tract of land at Montock Point, in the county of Suffolk, known by the name of Turtle-Hill, and bounded as follows: "Beginning at the beach, and at a rock laying on a hommock, at the bottom of the said hill, and runs thence north eighty-two degrees west, eleven chains and fifty-eight links; thence south five degrees west, five chains; thence south fifteen degrees east, nine chains, to a rock marked John Champlain, 1788; thence on the same course to low water mark; thence north-easterly along low water mark, until the point of beginning bears north, eighty-two degrees west; thence to the place of beginning;" such jurisdiction having been ceded for the erection of a light-house on said tract, by the act entitled "An act to cede the jurisdiction of certain lands on Montock Point to the United States of America, for the purposes therein mentioned," passed December 18th, 1792. The jurisdiction so ceded does not prevent the execution on said tract, of any process civil or criminal, under the authority of this state, ex-

(6) See note to preceding sections.

cept so far forth as such process may affect the real or personal property of the United States within the said tract; and the lands and tenements within said tract are forever exonerated from all taxes which may be laid under the authority of this state.⁷ TITLE 3.

§ 2. The United States have also jurisdiction over a tract of ten acres at Eaton's neck, in the town of Huntington in the county of Suffolk, such jurisdiction having been ceded for the erection of a light-house on said tract, by the act entitled "An act to cede the jurisdiction of certain lands in this state to the United States," passed April 6th, 1798. The said tract is described in a certificate of the president of the United States bearing date the second day of July, one thousand seven hundred and ninety-eight, and filed in the office of the secretary of this state, pursuant to said act, as follows: "All that certain lot, piece or parcel of land, lying and being at the northern extremity of Eaton's neck, in the town of Huntington in the county of Suffolk, beginning at the northernmost point thereof, upon the shore at high water, which is distant from a stone fixed in the ground and bears north twelve degrees west, two chains and twenty-four links; thence along the high water line of the shore south seventy-five degrees west, twelve chains seventy-five links; thence south twelve degrees east, two chains forty-five links to a stone fixed in the ground; thence south twelve degrees east, two chains fifty-eight links; thence south thirty-six degrees east, two chains and seventy links; thence south sixty-three degrees east, one chain eighty-two links; thence north seventy degrees east, ten chains seventeen links; thence north twelve degrees west, to the stone first mentioned five chains sixty-two links; thence north twelve degrees west, two chains and twenty-four links to the place of beginning, containing ten acres." Such cession is not to be construed to prevent the execution of any process, civil or criminal, issuing under the authority of this state; and the lands so ceded are forever exonerated and discharged from any taxes to be laid under the authority of this state.⁸ In Huntington in same county.

§ 3. The United States have also jurisdiction over three certain islands in and about the harbor of New-York, viz.: Bedlow's island and Ellis or Oyster island, bounded on all sides by the waters of the Hudson river, and Governor's island, bounded on all sides by the waters of the East river and Hudson river; such jurisdiction having been ceded by the act entitled "An act to cede to the United States the jurisdiction of certain islands situate in and about the harbor of New-York," passed February 15, 1800. The jurisdiction so ceded does not prevent the execution on the said islands, of any process, civil or criminal, issuing under the authority of this state.⁹ In the harbor of New-York.

§ 4. The United States have also jurisdiction over Great Gull island, and Little Gull island, situated in the county of Suffolk, and In the East river.

(7) 1 R. L. 168. (8) 1 R. L. 120, and documents in secretary's office. (9) Ib.

TITLE 2. bounded on all sides by the waters of the East river; such jurisdiction having been ceded for the erection of a light-house on one of the said islands, by the act entitled "An act to cede the jurisdiction of Great Gull island and Little Gull island to the United States of America, for the purpose therein mentioned," passed March 26, 1803. The jurisdiction so ceded does not prevent the execution on the said islands, of any process, civil or criminal, under the authority of this state, except so far forth as such process may affect the real or personal property of the United States within the said islands.¹⁰

Sands or
Watch Point
in Queens
county.

§ 5. The United States have also jurisdiction over a tract of five acres at Sands or Watch Point, on Long-Island, situated in the town of North-Hempstead, and county of Queens, such jurisdiction having been ceded for the erection of a light-house on the said tract, by the act entitled "An act to cede the jurisdiction of certain land in this state to the United States," passed February 17, 1806, and the act entitled "An act to facilitate the purchase of lands, for the erection of a light-house at North-Hempstead," passed April 11, 1808. The said tract is bounded as follows: "Beginning on the easterly side of said point, at a place or point in the line of ordinary high water mark, being north fifty-six degrees east, from a large walnut or hickory tree, marked on three sides, standing upon the upland, and running thence (from the said point in high water mark) across the said point of land on a course south fifty-six degrees west, so as to pass about four feet southerly of a small marked buttonwood tree, standing on the bank, and passing through the centre of the said walnut or hickory tree marked on three sides, and through the centre of a high white oak tree marked on two sides, to ordinary high water mark on the westerly side of said point of land; and thence to the line of ordinary high water mark to and around the said point of land to the point or place of beginning, in the line of ordinary high water mark on the easterly side of said point of land, containing five acres of land, be the same more or less." The jurisdiction so ceded does not prevent the execution on said tract, of any process, civil or criminal, issuing under the authority of this state.¹¹

Bluff-Point,
Staten-Is-
land.

§ 6. The United States have also jurisdiction over a tract at Bluff-Point, on Staten-Island, such jurisdiction having been ceded for the erection of fortifications, by the act entitled "An act to cede the jurisdiction of certain lands in this state to the United States," passed March 20, 1807.¹²

In the city of
New-York.

§ 7. The United States have also jurisdiction over two tracts of land and water in the city of New-York, the use of and jurisdiction over the same, having been ceded to them for the safety and defence of the city of New-York, by certain commissioners acting in behalf of

(10) *Ib.* 190. (11) *Ib.* 191 and 195, and documents in office of secretary of state. (12) *I* R. L. 192. The tract has not been designated by any instrument of acceptance, or by any act of possession.

of certain lands in this state to the United States," passed March 20th, 1807, and an act supplementary thereto, passed March 18th, 1808. One of the said tracts is described in the deed of cession, executed by the commissioners, and bearing date the sixth day of May one thousand eight hundred and eight, as follows: "Beginning in the Hudson river at a point in the continuation of the south line of Hubert-street, bearing north seventy-nine degrees and thirty minutes west, from the southeasterly corner of Hubert and West-streets, distant two hundred feet westerly from the permanent line of West-street, which said permanent line bears south ten degrees and fifteen minutes west, from the southwesterly corner of the state prison wall; thence north ten degrees and fifteen minutes east, parallel to the said permanent line, three hundred and five feet, to a point in the continuation of the north line of Laight-street; thence north seventy-nine degrees and thirty minutes west, three hundred feet into the Hudson river; thence south ten degrees and fifteen minutes west, three hundred and five feet to a point in the continuation of the south line of Hubert-street aforesaid; thence south seventy-nine degrees and thirty minutes east, three hundred feet to the place of beginning." The other of the said tracts is described in said deed as follows: "Beginning at a point in the line of the present battery, six feet southerly of the most southern external angle formed by the main battery, and the present bastion, which said point is four hundred ninety-seven feet eleven inches on a course south thirty-six degrees and twenty minutes west, from the southeasterly corner of the brick house situate at the corner of Marketfield-street and Broadway, now or lately belonging to Robert Kennedy, and is also on a course south eighty-nine degrees and ten minutes west, two hundred and sixty-four feet one inch from the northwesterly corner of Bridge and State-streets; thence north sixteen degrees and ten minutes west, three hundred and ten feet; thence south sixty-four degrees west, five hundred feet; thence south twenty-six degrees east, three hundred feet; thence north sixty-four degrees east, four hundred and twenty-five feet to the place of beginning: all of which courses are to be run as the magnetic needle now points." The United States are to retain such use and jurisdiction so long as the two tracts above described shall be respectively used and applied to the defence and safety of the city and port of New-York, and no longer. The jurisdiction so ceded does not prevent the execution on either of those tracts, of any process, civil or criminal, under the authority of this state; nor the operation within the same of the laws of this state, or the ordinances of the common council of the city of New-York, passed before the date of said deed, for the general regulation of the civil police of the said city, and not incompatible with the purposes for which such cession was made.¹³


TITLE 2.

(13) Deed of cession in secretary's office.

TITLE 3.

 In the Wallabout bay.

§ 8. The United States have also jurisdiction over a tract of land covered with the waters of the East River at the Wallabout bay, and adjoining the navy yard of the United States, the use of and jurisdiction over the same, having been granted to them, for the defence and safety of the city of New-York, by the commissioners, and pursuant to the acts before mentioned. The said tract is described in the deed of cession, executed by the commissioners, and bearing date the third day of April, one thousand eight hundred and ten, as follows: "Beginning at the southerly end of the dam of the pond at the navy yard, at a point designated on the map or chart comprising a delineation of the said parcel of land hereunto annexed, by the letter A, from which point the easterly corner of the commander's house at the navy yard bears north twenty-nine degrees and forty-five minutes west, the steeple of the Reformed Dutch Church at Brooklyn bears south sixty-two degrees west, and the south corner of the dwelling-house of Jeremiah Johnson bears north eighty degrees and twenty-five minutes east, and running from the said point designated as aforesaid by the letter A, north fifty-two degrees and thirty minutes east, two thousand two hundred and ninety feet to a point from which the north corner of the dwelling-house of the said Jeremiah Johnson bears south seventy degrees thirty minutes east, designated by the letter B, in the said map or chart, and running from the said last mentioned point north seven degrees east, one thousand five hundred and eighty feet, to a point from which the southwest corner of Thompson's house on the Long Island shore bears north seventy-six degrees and forty-five minutes east, the steeple of the Reformed Dutch Church in Brooklyn bears south forty-eight degrees and twenty-five minutes west, and the steeple of St. Paul's Church in the city of New-York bears north seventy-nine degrees west, and designated in the said map or chart by the letter C; and running from the said last mentioned point south seventy degrees west, two thousand four hundred and eighty feet to the north corner of the navy yard, designated in the said map or chart by the letter D; and thence southerly along the navy yard to the place of beginning, all which courses and bearings are taken as the magnetic needle now points." The United States are to retain such use and jurisdiction so long as said tract shall be used and applied to the defence and safety of the city and port of New-York, and no longer. The free and common use of the waters not appropriated by the United States for wharves or fortifications to the eastward of the navy yard of the United States, and the westward of the east boundary line of the land above described, is reserved to the people of this state. The jurisdiction so ceded does not prevent the execution on the said tract of any process, civil or criminal, under the authority of this state; nor the operation within the same, of the laws of this state, or the ordinances of the common council of the city of New-York passed before the date of said deed, for the general regulation of the civil police of

the said city, and not incompatible with the purposes for which such TITLE 3.
cession was made.¹⁴ 

§ 9. The United States have also jurisdiction over a tract of half At Buffalo in Erie county.
an acre in the town of Buffalo in the county of Erie, such jurisdiction having been ceded to the United States for the erection of a lighthouse on said tract, by the act entitled "An act to cede the jurisdiction of certain lands on Lake Erie to the United States, for the purposes therein mentioned," passed April 4, 1811. The said tract is described in a deed thereof, executed by Joseph Ellicott as attorney for the grantors, to the United States as follows: "All that certain tract of land, situate, lying and being in the village of Buffalo, in the county of Niagara, and state of New-York, being part or parcel of a certain township which, on a map or survey of divers tracts or townships of land made for the proprietors by Joseph Ellicott, surveyor, is distinguished by township number eleven, in the eighth range; beginning at a stone in the northern bounds of outer lot number thirty-six, in said village, standing north forty-eight degrees east, fifty-four links from the northwest corner of said lot, thence bounding on land conveyed to Joseph and Benjamin Ellicott, by deed bearing date the twenty-ninth day of February in the year of our Lord one thousand eight hundred and twelve, north forty-eight degrees east, six chains and one link to the southwestern bank of Buffalo creek; thence bounding on the said bank of the said creek, north eighty-seven degrees west, one chain and twenty-seven links; thence by a line parallel to the northern bounds of said land conveyed to Joseph and Benjamin Ellicott by deed as aforesaid, south forty-eight degrees west, five chains and eleven links to a stone, and thence south forty-two degrees east, ninety links, to the place of beginning, containing half an acre, be the same more or less." Such cession does not prevent the execution of any process at law under the authority of this state, except against the real or personal property of the government of the United States. The said tract is exonerated and discharged from any taxes which may be laid or imposed under the authority of this state, while said tract shall remain the property of the government of the United States, and while the same shall be appropriated to the above mentioned purpose, and not otherwise.¹⁵

§ 10. The United States have also jurisdiction over a certain In Greenbush Rensselaer county.
farm, piece or parcel of land, situate, lying and being in the town of Greenbush in the manor of Rensselaerwyck, county of Rensselaer and state of New-York, which was leased by Stephen Van Rensselaer to Christopher Yates on the sixteenth day of August one thousand seven hundred and ninety, and is bounded as follows, to wit: "Beginning at a stake and stones standing at the distance of twelve chains and forty-five links from the southwest corner of the kitchen

(14) Deed of cession in secretary's office. (15) 1 R. L. 196; deed in treasury department of U. S.

TITLE 2. on the premises, on a course north forty-nine degrees thirty minutes west, and running thence north forty-nine degrees and thirty minutes west, one chain and six links; thence north fifty-nine degrees forty-five minutes west, six chains and seventy-eight links; thence north twenty-nine degrees east, three chains and seventy-three links; thence north sixteen degrees east, nine chains and twenty-four links; thence south sixty degrees east, seven chains and twenty links; thence south thirty-four degrees east, one chain; thence south fifty degrees east, two chains; thence north fifteen degrees east, twenty-nine chains; thence south thirty-nine degrees east, thirty-eight chains and twelve links; thence due east ten chains; thence south eleven degrees thirty minutes east, forty-eight chains and eighty links; thence due west, thirty-two chains and twenty links; thence due north ten chains; thence north twenty-six degrees west, five chains fifty-three links; thence south thirty-seven degrees six chains and forty-seven links; thence north eighteen degrees west, two chains and twenty-seven links; thence north ten degrees west, three chains and seventy-one links; thence north two degrees west, three chains and fifty-eight links; thence north seventy degrees east, one chain and eighteen links; thence north eighteen degrees west, four chains and eighty-seven links; thence north seventy-seven degrees and forty minutes west, two chains and ninety-seven links; thence south fifteen degrees and forty minutes west, twelve chains and thirty-one links; thence south nine degrees east, eight chains and thirty-four links; thence south fifty-seven degrees east, two chains and forty-four links; thence south seventeen degrees west, nine chains; thence north sixty-eight degrees west, twenty-two chains and thirty links; thence due south four chains and forty links; thence north sixty degrees east, six chains; thence north twenty-nine degrees west, six chains and twenty links; thence north thirteen degrees west, three chains; thence south sixty-eight degrees east, five chains and twenty-one links; thence south thirty-two degrees eighteen minutes east, six chains and forty links; thence south three degrees forty-two minutes west, one chain eighty links; thence south eighty-nine degrees forty-eight minutes east, four chains thirty links; thence north three degrees forty-two minutes east, nine chains and ninety links; thence south eighty-six degrees eighteen minutes east, six chains and twenty links; thence north three degrees forty-two minutes east, fourteen chains and fifty links; thence north eighty-six degrees eighteen minutes west, six chains and twenty links; thence south three degrees forty-two minutes west, three chains and eighty links; thence north forty-two degrees and eighteen minutes west, ten chains and eighty links, to the beginning, containing two hundred and sixty-one acres and three tenths of an acre;" such jurisdiction having been ceded for the erection of magazines, arsenals, barracks and other needful buildings, by the act entitled "An act further to provide for

the defence of the frontiers, and for other purposes," passed June 12, 1812. The jurisdiction so ceded does not prevent the execution upon the said tract, of any process, civil or criminal, issuing under the authority of this state, nor the operation of the public laws of this state upon the said tract, so far as the same may not be incompatible with the free use and enjoyment of the said premises by the United States, for the purpose above specified.¹⁵

TITLE 3.

§ 11. The United States have also jurisdiction over thirty acres of land covered with water, in the town of New-Utrecht, in the county of Kings, on the easterly side of the Narrows, at the entrance into the bay of New-York, and upon a reef, commonly called Hendrick's reef, the same having been ceded for the defence and safety of the city and port of New-York, by the commissioners, and pursuant to the acts before mentioned. The said tract is described in the deed of cession, executed by the said commissioners, and bearing date the sixth day of November, one thousand eight hundred and twelve, as follows: "All that certain parcel of land covered with water, situate in the town of New-Utrecht and county of Kings, and on the easterly side of the Narrows, at the entrance into New-York bay, and upon a reef commonly called Hendrick's reef, which said parcel of land is comprised in the following boundaries, that is to say: Beginning at the northerly corner thereof, by land of Denyse D. Denyse, at high water mark, and near the south-easterly side of a large rock, and running from thence south twenty-four degrees and thirty minutes east, seven chains and seventeen links along said high water mark to the land of Jaques Cortelyou; thence south sixty-four degrees and forty-five minutes west, twenty-four chains, to the southerly corner of the hereby granted premises; thence north twenty-five degrees and fifteen minutes west, seven chains and seventeen links; thence north ten degrees and thirty minutes west, eleven chains and seventy links, to the westerly corner of the hereby granted premises; thence south eighty-six degrees east, twenty-four chains, to the place of beginning, containing thirty acres, two roods and four perches; all which courses and bearings are taken as the magnetic needle now points." The United States are to retain such use and jurisdiction so long as the said tract shall be used and applied to the defence and safety of the city and port of New-York, and no longer. The free and common passage over the waters aforesaid about the said tract, not actually appropriated by the United States for wharves, bridges, fortifications or public obstructions, is reserved to the people of this state. The jurisdiction so ceded does not prevent the execution on the said tract of any process, civil or criminal, under the authority of this state, nor prevent the laws of the state, not incompatible with the purposes for which such cession was made, from operating within the bounds of said tract.¹⁶

At New-Utrecht, Kings county.

(15) 2 R. L. 551, 552, § 16 & 17. (16) Deed of cession in secretary's office.

TITLE

 ARTICLE
 SECTION

§ 12. The United States have also purchased over a tract of land at the village of Rome, in the county of Oneida; and over a certain other tract in the town of Watervliet, in the county of Albany, such tracts having been ceded for the defence and safety of this state, by the commissioners before mentioned, pursuant to the act, entitled "An act to provide for the cession of the jurisdiction of certain lands in the northern and western counties of this state to the United States, and to extend the powers of the commissioners appointed by the act, entitled 'An act to cede the jurisdiction of certain lands in this state to the United States, passed March 20th, 1807,'" passed March 31st, 1815. The first of said tracts is described in the deed of cession executed by the commissioners, and bearing date the fifth day of April, one thousand eight hundred and sixteen, as follows: "All that certain piece or parcel of land situate in the village of Rome, county of Oneida, and state of New-York, on which the arsenal, armory, and other buildings belonging to the United States, are erected, distinguished as lots number four, five, six, thirteen, fourteen, and fifteen, in block number six of said village, lying contiguous and forming one entire lot, and is bounded as follows, to wit: Beginning at the north-westerly corner of lot number seven, in said block number six, and running thence westerly on the line of Dominick-street, north thirty-six degrees and twenty minutes west, in one thousand seven hundred and ninety-six, one hundred and ninety-eight feet, to the north-easterly corner of lot number three in said block number six; thence at right angles with Dominick-street, southerly, four hundred and thirty-two feet, to the south bank of the canal connecting Wood creek with the Mohawk river: thence easterly on the north bank of said canal to the south-westerly corner of lot number twelve in said block number six, two hundred and sixteen feet; thence running northerly at right angles with Dominick-street, to the place of beginning, three hundred and forty feet. Also, lot number five in block number seven, bounded as follows, to wit: Beginning at the south-westerly corner of lot number six, in block number seven, and running thence westerly on the line of Dominick-street, sixty-six feet, to the south-easterly corner of lot number four, in said block number seven; thence northerly at right angles with Dominick-street, two hundred feet, to the southerly line of Stone-alley; from thence easterly on the southerly line of Stone-alley, and parallel to Dominick-street, sixty-six feet; from thence at right angles with Dominick-street, two hundred feet, to the place of beginning." The second of said tracts is described in said deed as follows: "And also all that certain piece or parcel of land situate in the town of Watervliet, in the county of Albany, and state aforesaid, at a place called Gibbonsville, on which is also erected an arsenal and other buildings belonging to the United States, bounded as follows, to wit: Beginning at an elm tree standing on the bank of Hudson's river in the village of Gibbonsville.

thence running by the true meridian, (the variation of the magnetic needle being calculated at five degrees and thirty minutes to the west of north,) north seventy-five and a half degrees west, eleven chains and thirty-five links; thence south fourteen and a half degrees west, three chains, and eighty-six links; thence north seventy-five and a half degrees west, seven chains and seventy-five links; thence south fourteen and a half degrees west, three chains; thence south seventy-five and a half degrees east, seven chains and seventy-five links; thence south fourteen and a half degrees west, three chains and seventy-one links; thence south seventy-five and a half degrees east, eleven chains and thirty-five links, to the bank of Hudson's river; thence south seventy-five and a half degrees east, to the main channel of the said river; thence northerly along said channel to intersect a line drawn south seventy-five and a half degrees east from the first station; and then north seventy-five and a half degrees west, to the place of beginning." The United States are to retain such jurisdiction so long as said tract shall be applied to the use of providing for the defence and safety of the said state, and no longer. The jurisdiction so ceded does not prevent the execution on the said tracts of any process, civil or criminal, under the authority of this state, nor prevent the laws of the state, not incompatible with the purposes for which such cession was made, from operating within the bounds of said tracts.¹⁷

TITLE 3.

§ 13. The United States have also jurisdiction over lots number sixty-one, sixty-two, sixty-three, sixty-four, sixty-five and sixty-six, of the eighty acre lots in the tract granted to the Canadian and Nova-Scotia refugees, containing in the whole four hundred and eighty acres, and also over a tract of nine acres three roods and five poles, being the east end or front of lot number sixty in the same tract; which tracts are situated at Rouse's point, in the county of Clinton, on the west bank of Lake Champlain; such jurisdiction having been ceded for the defence and safety of this state, by deed dated the sixth day of July, one thousand eight hundred and eighteen, and executed by certain commissioners acting in behalf of this state, pursuant to the act entitled "An act to authorise the cession of the jurisdiction of certain lands in the northern and western counties of this state to the United States, and to extend the powers of the commissioners appointed by the act entitled 'An act to cede the jurisdiction of certain lands in this state to the United States,' passed March 20, 1807," passed March 31, 1815. The United States are to retain such jurisdiction so long as said tracts shall be applied to the use of providing for the defence and safety of the said state, and no longer. The jurisdiction so ceded does not prevent the execution on the said tracts of any process, civil or criminal, under the authority of this state, nor prevent the laws of the state, not incompatible with the

At Rouse's
point, Clin-
ton county

(17) Deed of cession in secretary's office.

marked L. H. ; thence north seventy-five degrees west, seven chains and sixty-five links, to a stake and stones marked L. H. standing on the bank of the lake ; thence northerly along said bank, to a point where the north line of the lot intersects said bank ; thence south-easterly along said line about forty-eight links, to the place of beginning ;” the title to and jurisdiction over the same having been ceded by the commissioners of the land-office, for the erection of a light-house, pursuant to the act entitled “ An act to cede the jurisdiction of certain land near the mouth of the Oswego river to the United States,” passed March 27, 1821.²¹

TITLE 3

§ 17. The United States have also jurisdiction over a tract of three acres and one hundred and fifteen rods, situated at the mouth of the Genesee river, on the west side thereof, being part of village lot number twenty-eight, in the village of Charlotte, in the former town of Gates, and county of Monroe, bounded as follows : “ Beginning at the easterly side of Main-street, at a stake and stones one chain southerly from the north-easterly corner of said lot number twenty-eight, running thence south sixty-one degrees and forty-five minutes east, two chains and fifty links, to a stake and stones ; thence north twenty-eight degrees and fifteen minutes east, one chain, to the northerly line of said lot ; thence south sixty-one degrees and forty-five minutes east, eight chains and forty-eight links, to the said river ; thence south twenty-six degrees west, along the said river, two chains, to a stake and stones ; thence north sixty-one degrees and forty-five minutes west, two chains and fifty links, to a stake and stones ; thence south two chains, to the southerly line of said lot number twenty-eight ; thence north sixty-one degrees and forty-five minutes west, eight chains and sixty-three links, along the said line, to the said Main-street ; thence north twenty-eight degrees and fifteen minutes east, three chains, to the place of beginning, containing three acres and one hundred and fifty rods ;” the title to, and the jurisdiction over the said tract, having been ceded by the commissioners of the land-office, for the erection of a light-house, pursuant to the act entitled “ An act to amend an act entitled ‘ An act to cede the jurisdiction of certain lands at the mouth of Genesee river, to the United States,’ ” passed February 4th, 1822.²²

§ 18. The United States have also jurisdiction over a tract in the town of Sodus, in the county of Wayne, bounded as follows : “ Beginning on the shore of Lake Ontario, on the east bounds of Ontario-street, running thence south on the said east bounds of the street, nine chains and sixteen links, to a cedar post at the north end of Captain Wickham’s board fence ; thence north sixty-three degrees and forty minutes east, four chains and twenty-three links, to a cedar

(21) Laws of 1821, p. 154, and records of land-office. (22) Laws of 1822, p. 4, and records of land-office.

§ 21. The United States have also jurisdiction over two certain tracts of land lying in the town of New-Utrecht, in the county of Kings, within this state, the first of which is bounded as follows: TITLE 3
 “Beginning at the bay or river on the division line of the hereby described premises, and land now or late belonging to Jane Smith, and running thence along the said division line north fifty-eight degrees east, one chain and fifty links, to a certain stake standing on the bank; thence along the said line north thirty-seven degrees east, sixty-seven chains and eighty links, to certain lands now or late belonging to John S. Denyse; thence along the last mentioned lands south fifty-seven degrees east, three chains and ninety-two links, to certain lands now or late belonging to Isaac Cortelyou; thence along the last mentioned lands, and along certain lands now or late belonging to Jaques Cortelyou, south twenty-eight degrees west, thirty-seven chains forty-two links; thence along the last mentioned lands the five following courses, to wit, south thirty-eight degrees forty minutes west, twenty-three chains, to a certain rock; thence south forty-one degrees east, four chains forty-seven links; thence south twenty-five degrees east, three chains and twenty-five links; thence south sixty-four degrees west, seven chains forty-three links; thence south forty-one degrees west, one chain and thirty links, to the bay or river aforesaid; thence north-westerly along the said bay or river, to the place of beginning; containing sixty acres, one rood and six perches of land:” and the second of which is bounded as follows: “Beginning at the south-easterly point of the land next before described; thence north sixty-two degrees east, one hundred and eighty yards; thence north twenty degrees west, seventy-five yards; thence north forty-two degrees east, three hundred and ten yards; thence south sixty degrees east, two hundred and forty-two yards; thence south twenty-five degrees west, one hundred and sixty yards; thence north sixty degrees west, about one hundred and eighty-five yards, to a point near a pond; thence south thirty-three degrees west, one hundred and ninety-five yards; thence south fifty-three degrees west, two hundred and twenty yards, to the bay or river; thence along the said bay, ninety-yards, to the place of beginning; according to a plat and survey thereof, containing sixteen acres and one half acre of land:” such jurisdiction having been ceded by the act entitled “An act to vest in the United States of America the exclusive jurisdiction to certain lands in the town of New-Utrecht in the county of Kings, and for other purposes,” passed November 27th, 1824, for the erection of fortifications on the said tracts. The United States have also jurisdiction over a certain tract “beginning at the water’s edge at the south-east point of the first parcel of land above described; thence north forty-one degrees east, one chain and thirty links; thence north sixty-four degrees east, seven chains and forty-three links; thence north twenty-five degrees west, three chains and twenty-five links;

TITLE 3. thence north forty-one degrees east, four chains and forty-seven links ; thence north thirty-eight degrees and forty minutes east, nine chains and ten links ; thence south sixty degrees east, eleven chains and sixty-nine links ; thence south twenty-five degrees west, seven chains and twenty-eight links ; thence north sixty degrees west, eight chains and forty-one links ; thence south thirty-five degrees west, eight chains and eighty-six links ; thence south fifty-three degrees west, ten chains ; thence along the water's edge, to the place of beginning ; containing seventeen acres, fourteen perches and one hundred and five yards of land ;" such jurisdiction having been ceded by the act entitled " An act to amend ' An act to vest in the United States of America the exclusive jurisdiction to certain lands in the town of New-Utrecht in the county of Kings, and for other purposes,' passed November 27th, 1824," passed April 17th, 1826 ; for the erection of fortifications on the said tract.²⁶

In Islip, Suffolk county.

§ 22. The United States have also jurisdiction over a tract of land and beach, situated in the town of Islip, in the county of Suffolk, being the west end of the east branch of Fire-Island inlet, " beginning on the southerly side of the same, at low water mark, on the Atlantic Ocean, in a range of branded stakes ; thence north thirty-two chains, to low water mark on the Great South bay, including all the land to the west of the said north line to Fire-Island inlet aforesaid, at low water mark ;" such jurisdiction having been ceded by the act entitled " An act to vest in the United States of America, the exclusive jurisdiction in and over a piece of land in the town of Islip, in the county of Suffolk, and for other purposes," passed April 20, 1825, for the erection of a light-house on said tract.²⁷

In Haverstraw, Rockland county.

§ 23. The United States have also jurisdiction over a tract of land situated in the town of Haverstraw, in the county of Rockland, being the extreme point of land called Stony-Point, on the Hudson river, " beginning at the river at high water mark, on the south side of the Point, at a stake, thence across the Point, north four degrees west, (passing thirty-five links to the west of the fort) to the river at high water mark ; thence along the same at high water mark round the Point to the place of beginning ;" such jurisdiction having been ceded by the act, entitled " An act to vest in the United States of America, the jurisdiction over certain lands on Stony-Point, and for other purposes," passed March 23, 1826, for the erection of a light-house or beacon on said tract.²⁸

Extent of cession in four last sections.

§ 24. The jurisdiction so ceded over the tracts described in the four last sections, does not prevent the execution on said tracts of any process, civil or criminal, under the authority of this state, except so far forth as any such process may affect the real or personal property of the United States within the said tracts ; and all the lands and

(26) Laws of 1824, p. 387, and 1826, p. 281. (27) Laws of 1825, p. 337. (28) Laws of 1826, p. 65.

tenements within the limits aforesaid shall be, and continue forever hereafter exempted from all taxes, assessments and other charges under or by virtue of any present or future law of this state.²⁹

TITLE 3.

§ 25. The United States have also jurisdiction over a certain tract of land lying in the town of Cornwall, in the county of Orange, and bounded as follows: "Beginning at the north-easterly corner of the piece of land herein intended to be described, at the mouth of a small creek which enters into the Hudson river near the old stores, and thence up and along the south-easterly side of the said creek to its intersection with the north-easterly side of the road leading from West-Point to John Cronkhite's; thence south-easterly along the north-easterly side of the said road to its intersection with the road which leads from West-Point southerly to the widow Kinsley's; thence from said point of intersection due south, to a point seven chains south of the line which divides the Gridley farm from the post of West-Point; thence south eighty-one degrees east, to the Hudson's river, on a line parallel with the said division line; and from thence northwardly along the low water mark of the said river, to the place of beginning, containing two hundred and twenty acres or thereabouts," such jurisdiction having been ceded by the act, entitled "An act to cede to the United States the jurisdiction of this state to certain lands at West-Point, in the county of Orange," passed March 2, 1826. Such jurisdiction does not prevent the execution of any process, civil or criminal, under the authority of this state, except so far as such process may affect the real or personal property of the United States within the said tract.³⁰

In Cornwall, Orange county, (West Point.)

§ 26. The United States have also jurisdiction over a certain tract of land situated in the town of Lyme in the county of Jefferson, being the extreme point of land called Tibbets' point, bounded as follows: "Beginning at a stake standing on the extreme point thereof, on the bank of lake Ontario; thence north seven degrees and thirty minutes east, five chains to a basswood sapling cornered; thence south eighty-two degrees and thirty minutes east, five chains and fifty links to a stake cornered, ten links south-westerly from a maple tree blazed; thence south seven degrees and thirty minutes west, seven chains and fifty links to a stake on the bank of lake Ontario, nine links southerly from a walnut tree blazed; thence north forty-nine degrees and forty-five minutes west, five chains and ninety-nine links to an angle; thence south seventy degrees and thirty minutes west, ninety-seven links to the place of beginning, containing two acres and ninety-six hundredths of an acre of land;" such jurisdiction having been ceded for the erection of a light-house on said tract, by the act entitled "An act to vest in the United States the title to a lot of land in Jefferson county," passed 25th January, 1827. The juris-

In Lyme, Jefferson county.

(29) See notes to four last sections. (30) Laws of 1826, p. 46.

TITLE 3. diction so ceded does not prevent the execution on said tract of any process, civil or criminal, under the authority of this state.³¹

On Plumb-
Island, Suff-
olk county.

§ 27. The United States have also jurisdiction over a tract of land containing three acres, situated on the south side of the west end of Plumb-Island in the county of Suffolk, and bounded as follows: "Beginning at low water mark, opposite a rock on the edge of the upland, marked U. S. 1826, and running thence north four degrees east, six chains and three links to a stake on the hill; thence running south seventy-nine degrees west, over a rock at the bottom of the bank marked U. S. to the west point of said island to low water mark; thence south-eastwardly along the shore at low water mark to the place of beginning, opposite to the first mentioned rock, butted and bounded northwardly and eastwardly by lands of Richard Jerome; southwardly and westwardly by the waters of Gardiner's Bay and Plumb-Gut;" such jurisdiction having been ceded for the erection of a light-house on said tract, by the act entitled "An act declaring the consent of the legislature of the state of New-York to the purchase by the United States of lands on Plumb-Island, for erecting a light-house thereon," passed 13th April, 1827. The jurisdiction so ceded does not prevent the execution on said tract of any process, civil or criminal, under the authority of this state, so that such process does not affect any property of the United States, real or personal, within the said tract.³²

At Prince's
Bay, Rich-
mond county.

§ 28. The United States have also jurisdiction over a tract containing about eight acres and three quarters of an acre of land, situated at Prince's Bay, in the town of Westfield and county of Richmond, and bounded as follows: "Easterly and southerly by the bay at high water mark, as patented to the original proprietors; westerly by Richard Lafourge's land; and northerly by land belonging to the estate of Israel R. Dissosway, deceased; being part of the estate whereof he died seized;" such jurisdiction having been ceded for the erection of a light-house on said tract, by the act entitled "An act to vest in the United States of America the jurisdiction over a certain piece of land at Prince's Bay in the county of Richmond," passed April 17, 1827. The jurisdiction so ceded does not prevent the execution on said tract of any process, civil or criminal, under the authority of this state, except so far forth as such process may affect the real or personal property of the United States, within the said tract; and the lands and tenements within said tract are exonerated from all taxes, during the continuance of such jurisdiction, in the United States; which jurisdiction is however to continue in the United States, so long only as the said tract shall be used and occupied as a site for a light-house.³³

(31) Laws of 1827, p. 17. (32) *Ib.* p. 238. (33) *Ib.* p. 864.

[By the act of 15th April, 1828, the following cession to the United States was made :] TITLE I.

§ 29. The United States have also jurisdiction over a tract of land not exceeding one acre in extent, on the lands belonging to the state, situated on and near the south-eastern point or projection, of Staten Island : to be laid out in such a manner as not to interfere with the appropriate uses of the military grounds of Fort Tompkins ; upon the condition that the government of the United States shall erect and maintain a light-house on said ground ; and on failure to do so, the title to said ground shall revert to the people of this state. The jurisdiction so ceded, does not prevent the execution of any process, civil or criminal, issuing under the authority of this state.³⁴

CHAP. II.

Of the Civil Divisions of the State.

- TITLE 1.—Of the several counties of the state.
- TITLE 2.—Of the senate districts.
- TITLE 3.—Of the congress districts.
- TITLE 4.—Of the several towns of this state.
- TITLE 5.—Of the several cities in this state.
- TITLE 6.—General provisions concerning the erection and alteration of counties, &c.

TITLE I.

OF THE SEVERAL COUNTIES OF THE STATE.

SECTION 1. The state shall be divided into fifty-six counties, called Suffolk, Queens, Kings, Richmond, New-York, Westchester, Putnam, Dutchess, Rockland, Orange, Ulster, Sullivan, Delaware, Greene, Columbia, Albany, Rensselaer, Schoharie, Schenectady, Saratoga, Montgomery, Hamilton, Washington, Warren, Essex, Clinton, Franklin, St. Lawrence, Herkimer, Oneida, Madison, Oswego, Lewis, Jefferson, Otsego, Chenango, Broome, Cortland, Tompkins, Tioga, Steuben, Onondaga, Cayuga, Seneca, Ontario, Yates, Wayne, Livingston, Monroe, Genesee, Orleans, Niagara, Erie, Allegany, Cattaraugus and Chautauque.

[The residue of this Title contains the boundaries of each of the above counties, with some general provisions respecting their boundary lines. The remaining sections of this Title will be published in the third volume of the Revised Statutes, with other local acts.]

TITLE I.



TITLE II.

OF THE SENATE DISTRICTS.

- Sec. 1. Division of the state into eight senate districts.
 2. Districts to be altered at the first session after every census.
 3. To consist of contiguous territory and of whole counties.

Eight dis-
tricts.

§ 1. The state is divided into eight districts, called senate districts, the limits of which, until the returns of the enumeration to be made of the inhabitants of this state, in the year one thousand eight hundred and thirty-five, shall be as follows :

First.

1. The first district shall consist of the counties of Suffolk, Queens, Kings, Richmond and New-York.

Second.

2. The second district shall consist of the counties of Westchester, Putnam, Dutchess, Rockland, Orange, Ulster, Sullivan and Ithaca.

Third.

3. The third district shall consist of the counties of Greene, Columbia, Albany, Rensselaer, Schoharie and Schenectady.

Fourth.

4. The fourth district shall consist of the counties of Saratoga, Montgomery, Hamilton, Washington, Warren, Clinton, Essex, Franklin and St. Lawrence.

Fifth.

5. The fifth district shall consist of the counties of Herkimer, Oneida, Madison, Oswego, Lewis and Jefferson.

Sixth.

6. The sixth district shall consist of the counties of Otsego, Sullivan, Broome, Cortland, Tompkins, Tioga and Steuben.

Seventh.

7. The seventh district shall consist of the counties of Oneida, Cayuga, Seneca, Ontario, Wayne and Yates.

Eighth.

8. The eighth district shall consist of the counties of Livingston, Monroe, Genesee, Orleans, Niagara, Erie, Allegany, Cattaraugus and Chautauque.¹

When and
how altered.

§ 2. At the first session after the return of every enumeration to be made of the inhabitants of the state, the senate districts are to be so altered by the legislature, that each district shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens, paupers and persons of colour not taxed.²

Territory.

§ 3. Each senate district is required at all times to consist of contiguous territory ; and no county can be divided in the formation of a senate district.³

TITLE III.

OF THE CONGRESS DISTRICTS.

Thirty con-
gress dis-
tricts.

§ 1. The state shall be divided into thirty districts for the election of representatives in the congress of the United States, the limits of which shall be as follows :⁴

(1) Laws of 1826, p. 336, § 3. (2) Constitution, art. 1, § 6. (3) Ib. (4) Laws of 1827, § 16.

1. The counties of Suffolk and Queens shall compose the first dis- trict, and shall be entitled to elect one member. TITLE 3.
2. The counties of Rockland, Richmond and Kings, shall compose the second district, and shall be entitled to elect one member. First.
Second.
3. The city and county of New-York shall compose the third dis- trict, and shall be entitled to elect three members. Third.
4. The counties of Putnam and Westchester shall compose the fourth district, and shall be entitled to elect one member. Fourth.
5. The county of Dutchess shall compose the fifth district, and shall be entitled to elect one member. Fifth.
6. The county of Orange shall compose the sixth district, and shall be entitled to elect one member. Sixth.
7. The counties of Ulster and Sullivan shall compose the seventh district, and shall be entitled to elect one member. Seventh.
8. The county of Columbia shall compose the eighth district, and shall be entitled to elect one member. Eighth.
9. The county of Rensselaer shall compose the ninth district, and shall be entitled to elect one member. Ninth.
10. The city and county of Albany shall compose the tenth district, and shall be entitled to elect one member. Tenth.
11. The counties of Greene and Delaware shall compose the eleventh district, and shall be entitled to elect one member. Eleventh.
12. The counties of Schoharie and Schenectady shall compose the twelfth district, and shall be entitled to elect one member. Twelfth.
13. The county of Otsego shall compose the thirteenth district, and shall be entitled to elect one member. Thirteenth.
14. The county of Oneida shall compose the fourteenth district, and shall be entitled to elect one member. Fourteenth.
15. The county of Herkimer shall compose the fifteenth district, and shall be entitled to elect one member. Fifteenth.
16. The counties of Montgomery and Hamilton shall compose the sixteenth district, and shall be entitled to elect one member. Sixteenth.
17. The county of Saratoga shall compose the seventeenth district, and shall be entitled to elect one member. Seventeenth.
18. The county of Washington shall compose the eighteenth district, and shall be entitled to elect one member. Eighteenth.
19. The counties of Franklin, Clinton, Essex and Warren shall compose the nineteenth district, and shall be entitled to elect one member. Nineteenth.
20. The counties of Oswego, Jefferson, Lewis and St. Lawrence, shall compose the twentieth district, and shall be entitled to elect two members. Twentieth.
21. The counties of Chenango and Broome shall compose the twenty-first district, and shall be entitled to elect one member. Twenty-first.
22. The counties of Madison and Cortland shall compose the twenty-second district, and shall be entitled to elect one member. Twenty-second.

TITLE G.

Twenty-third.

Twenty-fourth.

Twenty-fifth.

Twenty-sixth.

Twenty-seventh.

Twenty-eighth.

Twenty-ninth.

Thirtieth.

23. The county of Onondaga shall compose the twenty-third district, and shall be entitled to elect one member.

24. The county of Cayuga shall compose the twenty-fourth district, and shall be entitled to elect one member.

25. The counties of Tompkins and Tioga shall compose the twenty-fifth district, and shall be entitled to elect one member.

26. The counties of Seneca, Ontario, Yates and Wayne shall compose the twenty-sixth district, and shall be entitled to elect two members.

27. The counties of Monroe and Livingston shall compose the twenty-seventh district, and shall be entitled to elect one member.

28. The counties of Cattaraugus, Allegany and Steuben, shall compose the twenty-eighth district, and shall be entitled to elect one member.

29. The counties of Genesee and Orleans, shall compose the twenty-ninth district, and shall be entitled to elect one member.

30. The counties of Chautauque, Niagara and Erie shall compose the thirtieth district, and shall be entitled to elect one member.

TITLE IV.

OF THE SEVERAL TOWNS OF THIS STATE.

[This Title contains a description of each town in the state, and some general provisions concerning the boundary lines between towns. It will be published in the third volume of the Revised Statutes, with other local acts.]

TITLE V.

OF THE SEVERAL CITIES IN THIS STATE.

[This Title contains the boundaries of the several cities in this state and of their respective wards. It will also be published in the third volume.]

TITLE VI.

GENERAL PROVISIONS CONCERNING THE ERECTION AND ALTERATION OF COUNTIES, CITIES, VILLAGES AND TOWNS.

Sec. 1. Applicants for new counties, cities or villages, or the alteration of their bounds, to publish notice and furnish a map.

2. Map to be verified by the oath of the surveyor.

3. If application granted, map to be filed with surveyor-general.

4. Applicants for new towns, or alterations or divisions of towns, to affix notice previous to town-meeting.

5. Notice to be read at town-meeting.

6. Surveys and maps to be furnished.

Certain applicants to publish notice and furnish map.

§ 1. All persons intending to apply to the legislature for the erection of a new county, or for the incorporation of a city or village; or for any alteration of the bounds of any county, city, or village, shall

cause notice to be published of such intended application, as required by law⁵; and shall also procure an accurate survey and map of the territory described in such application. CHAP. 3.

§ 2. Such survey and map shall be duly verified by the oath of the surveyor making the same; and shall be laid before the legislature, before any such application shall be acted on. Map how verified.

§ 3. In case any law shall be passed by the legislature, pursuant to such application, the aforesaid survey and map shall be filed in the office of the surveyor-general of this state. Where filed.

§ 4. No town in this state shall be divided or altered in its bounds, nor shall any new town be erected, without an application to the legislature by the inhabitants of such town so to be divided or altered, or of the several towns out of which such new town is to be erected, or some of them; and notice in writing of such intended application, subscribed by at least five persons resident and freeholders in such town or towns shall be affixed on the outer door of the house where the next town-meeting is to be held in each of the towns to be affected thereby, at least ten days previous to the town-meeting in each of those towns. Notice of applications to erect towns. &c. where affixed.

§ 5. A copy of such notice shall also be read at the town-meeting of every town to be affected thereby, to the electors there assembled, by the clerk of the town, immediately before proceeding to the election of town officers. To be read at town-meetings.

§ 6. The persons applying for the division or alteration of the bounds of any town, or for the erection of a new town, shall also procure such survey and map as is required in the first section of this Title, which shall be laid before the legislature, and filed with the surveyor-general, as above provided.⁶ Map and survey.

CHAP. III.

Of the Census or Enumeration of the Inhabitants of the State.

- Sec. 1.** Enumeration when to be taken.
- 2.** Secretary of state to have certain blank returns and abstracts printed.
- 3.** To transmit them to clerks of counties.
- 4.** Marshals for each town and ward to be appointed, by whom.
- 5.** County clerks to furnish marshals with blank returns.
- 6.** Marshals to take enumeration; proceedings.
- 7.** Form of returns by marshals.
- 8.** What persons to be enumerated.

⁽⁵⁾ See chap. vii. 1st part R. S. Title 8. sec. 1. ⁽⁶⁾ This Title is taken chiefly from 1 R. L. p. 220, § 2, and 2 R. L. 135, § 25.

CHAP. 3.



- § 9. Returns to be certified and sworn to.
 10. To be delivered to county clerk, by what time.
 11. County clerk to transmit abstracts to secretary of state.
 12. Secretary to report to the legislature.
 13. Expenses of marshals and county clerks, how audited and paid.
 14. Penalty on persons refusing to give information to marshals, or giving it falsely.

Census when
to be taken.

SECTION 1. An enumeration of the inhabitants of this state, is to be taken at the end of every tenth year, after the year one thousand eight hundred and twenty-five.¹

Blank returns
to be printed.

§ 2. The secretary of state shall, in every such tenth year, cause uniform blank returns and abstracts in conformity to the forms and provisions herein contained, together with copies of this Chapter, to be printed for the purpose of taking such enumeration, and obtaining other statistical information.

To be sent to
county
clerks.

§ 3. The secretary of state shall, on or before the first day of May, in every such tenth year, transmit by mail to the clerk of the city and county of New-York, and to each of the other county clerks, twice as many of such blank returns and copies of this Chapter, as there are wards and towns in their respective counties.

Marshals in
each town
and ward.

§ 4. The common council in each of the cities, and the supervisors, town clerks and assessors, in each of the towns in this state, shall respectively convene at some convenient place in each of such cities and towns, on or before the first Monday in July in every such tenth year, and shall appoint one person, to be called a marshal, in each town and ward, to enumerate the inhabitants therein, and to perform the other duties prescribed by this Chapter.

To be fur-
nished with
blank re-
turns.

§ 5. It shall be the duty of the clerk of the city and county of New-York, and of every county clerk in this state, to distribute such blank returns and copies of this Chapter, on or before the fifteenth day of July, in every such tenth year, among the several marshals thus appointed.

Duty of mar-
shals.

§ 6. Immediately on receiving such blank returns and copies of this Chapter, every such marshal shall proceed to enumerate, truly and accurately, the inhabitants residing in the town or ward for which he shall have been appointed, by making actual enquiry at every dwelling-house, or of the head of every family residing therein: and to obtain the statistical information required by this Chapter, by such convenient means as may be in his power.

Form of re-
turns.

§ 7. Each marshal shall enter in the blank return received by him the particulars of the enumeration so made, and of the statistical information so obtained, in the following manner and form;

(1) Constitution, art. 1, § 6.

RETURN of the Enumeration of the Inhabitants of the Town (or Ward) of

1	THE NAME OF THE HEAD OF EACH FAMILY.	
2	The number of male persons in the family, (the name of whose head is in the first column), including its head, if male.	
3	The number of female persons in the same family, including its head, if female.	
4	The number of male persons in the same family subject to militia duty.	
5	The whole number of male persons in the same family entitled by the constitution of this state to vote for all officers elected by the people.	
6	The number of male persons in the same family who are aliens not naturalized.	
7	The number of persons in the same family who are paupers.	
8	The number of persons in the same family who are persons of colour not taxed.	
9	The number of persons of colour in the same family who are taxed.	
10	The whole number of persons of colour in the same family who are taxed, and entitled by the constitution of this state to vote for all officers elected by the people, (and not to be included in the ninth column.)	
11	The number of married female persons in the same family under the age of forty-five years.	
12	The number of unmarried female persons in the same family, between the ages of sixteen and forty-five years.	
13	The number of female persons in the same family, unmarried, under the age of sixteen years.	
14	The number of marriages occurring in the same family, where the female married resided, during the year preceding.	
15	MALE	preceding.
16	FEMALE	preceding.
17	The whole number of births in the same family during the year preceding.	
18	MALE	preceding.
19	FEMALE	preceding.
20	The number of acres of improved land occupied by the same family.	
21	The number of neat cattle owned by the same family.	
22	The number of horses owned by the same family.	
23	The number of sheep owned by the same family.	
24	The number of hogs owned by the same family.	
25	The number of yards of full-dressed cloth manufactured in the domestic way in the same family, during the preceding year.	
26	The number of yards of flannel and other woollen cloths not full-dressed, manufactured in the domestic way in the same family, during the year preceding.	
27	The number of yards of linen, cotton, or other thin cloths, manufactured in the domestic way in the same family, during the year preceding.	
28	The number of grist-mills.	
29	The number of saw-mills.	
30	The number of oil-mills.	
31	The number of fulling-mills.	
32	The number of carding-machines.	
33	The number of yards of cotton cloth, manufactured in each factory, other than in the domestic way.	
34	The number of yards of woolen cloth, manufactured in each factory, other than in the domestic way.	
35	The number of iron works.	
36	The number of trip-hammers.	
37	The number of distilleries.	
38	The number of saheries.	

with the other Statistical information required by Law to be obtained in such Town.

		DEAF AND DUMB.				IDIOTS.				LUNATICS.			
		MALES.	FEMALES.	CIRCUMSTANCES.		MALES.	FEMALES.	CIRCUMSTANCES.		MALES.	FEMALES.	CIRCUMSTANCES.	
TOWNS.		Under ten years.			Under twenty-one years.			Under twenty-one years.				Under twenty-one years.	
		Between ten and twenty-five years.			Above twenty-one years.			Above twenty-one years.				Above twenty-one years.	
		Under ten years.			Under twenty-one years.			Under twenty-one years.				Under twenty-one years.	
		Between ten and twenty-five years.			Above twenty-one years.			Above twenty-one years.				Above twenty-one years.	
		Number supported by charity.			Number supported by charity.			Number supported by charity.				Number supported by charity.	
		Number of sufficient ability to support themselves.			Number of sufficient ability to support themselves.			Number of sufficient ability to support themselves.				Number of sufficient ability to support themselves.	
		Total number of deaf and dumb in said town.			Whole number of idiots in said town.			Whole number of idiots in said town.				Whole number of lunatics in such town.	

Whole number of Deaf and Dumb Persons, and of Idiots and Lunatics, in the Town of _____ in the County of _____ distinguishing Sexes, Ages and Circumstances.

§ 8. Every person whose usual place of abode shall be in any family on the first day of July, in every such tenth year, shall be returned as of such family; and every person casually absent at the time of taking the enumeration, as belonging to that place in which he usually resides.

CHAP. 3.
Who to be enumerated.

§ 9. The return, so made out, shall be certified by each marshal taking the enumeration, to be true and accurate, to the best of his knowledge and belief, and shall be subscribed and sworn to by him, before any officer authorised to administer oaths, who shall certify such attestation.

Returns how verified.

§ 10. Each marshal shall, on or before the first day of December, in every such tenth year, cause the returns so certified to be delivered to the county clerk of the county for which such marshal shall have been appointed; and in the city of New-York, to the clerk of the city and county.

When to be delivered to county clerks.

§ 11. Each county clerk, and the clerk of the city and county of New-York, shall, on receiving the returns of the enumeration, and other statistical information, and before the second Tuesday of January next after every such tenth year, make and transmit to the secretary of state, by mail, an abstract thereof, subscribed by him, containing the sum total in each ward and town in his county, (specifying the same towns and wards by name,) of the particulars required to be stated in the several columns of the return to be made by the marshals herein before prescribed, and also the sum total of each of the said particulars in his county.

Returns by county clerks to secretary of state.

§ 12. The secretary of state, after receiving the abstracts required to be sent to him by the county clerks, shall prepare and report to the legislature, a general account of the enumeration, specifying the result thereof in the several towns, wards, cities and counties of the state, with a recapitulation of the whole.

Report of secretary to legislature.

§ 13. The accounts for the services of the marshals in taking such enumeration, and of the county clerks in making out the abstracts thereof, shall be audited by the supervisors of the county where the services are performed, and in the city of New-York by the common council thereof, and shall be assessed, collected and paid, as part of the contingent expenses of such county or city.

Expenses how paid.

§ 14. Any person being the head of a family or a member thereof, above the age of twenty-one years, who shall refuse to give to any marshal the information demanded by him relative to any of the particulars which such marshal is required to state in his return, concerning such family or such person, or who shall wilfully give false information to such marshal concerning the same, shall forfeit and pay a penalty of twenty-five dollars, to be sued for and recovered with

Penalty for refusing information, &c.

CHAP. 4. costs of suit, by and in the name of the commissioners of common schools in their respective towns, for the benefit of such schools.²

CHAP. IV.

Of the Rights of the Citizens and Inhabitants of this State.

- SEC. 1. All authority derived from the people.
2. Taxes how levied.
 3. Right to keep arms.
 4. When citizens may be compelled to perform military service.
 5. Certain persons to be excused from service.
 6. Quartering of soldiers.
 7. Rights of citizens secured.
 8. Trial by jury preserved ; new courts to proceed according to the course of the common law.
 9. Religious worship to be free.
 10. The writ of habeas corpus not to be suspended.
 11. Search warrants regulated.
 12. Accusations for criminal offences, how to be made.
 13. Principles of civil liberty declared respecting proceedings in criminal cases, and concerning the private right of property.
 14. Rights of persons accused of crimes.
 15. Justice to be speedily administered, and process to be granted to all persons.
 16. Fines to be reasonable and proportioned to the offence.
 17. Excessive bail not to be required, nor unusual punishments inflicted.
 18. Elections to be free ; no one to be disturbed in voting.
 19. Right of petitioning declared.
 20. Liberty of speech and of the press declared.
 21. Truth to be given in evidence in prosecutions for libels, and jury to determine both law and fact.

All authority derived from the people.

SECTION 1. No authority can, on any pretence whatsoever, be exercised over the citizens of this state, but such as is or shall be derived from and granted by the people of this state.¹

Taxes how levied.

§ 2. No tax, duty, aid or imposition whatsoever, except such as may be laid by a law of the United States, can be taken or levied within this state, without the grant and assent of the people of this state, by their representatives in senate and assembly ; and no citizen of this state can be by any means compelled to contribute to any gift, loan, tax, or other like charge, not laid or imposed by a law of the United States, or by the legislature of this state.²

Right to keep arms.

§ 3. A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms cannot be infringed.³

Military service by citizens.

§ 4. No citizen of this state can be constrained to arm himself, or to go out of this state, or to find soldiers or men of arms, either horsemen or footmen, without the grant and assent of the people of this

(2) This chapter is taken substantially from the laws of 1825, p. 154.

(1) 1 R. L. 47, § 1. (2) Ib. 48, § 12. (3) 2d amendt. cons. U. S.

state, by their representatives in senate and assembly, except in the cases specially provided for by the constitution of the United States.⁴ CHAP. 4.

§ 5. All such inhabitants of this state of any religious denomination whatever, as from scruples of conscience may be averse to bearing arms, are to be excused therefrom by paying to the state an equivalent in money; and the legislature is required to provide by law for the collection of such equivalent, to be estimated according to the expense, in time and money, of an ordinary able-bodied militia-man.⁵ Who to be excused.

§ 6. No soldier can in time of peace be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.⁶ Quartering soldiers.

§ 7. No member of this state can be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.⁷ Rights secured.

§ 8. The trial by jury, in all cases in which it has heretofore been used, is to remain inviolate forever; and no new court can be instituted but such as shall proceed according to the course of the common law, except such courts of equity, as the legislature, by the constitution of this state, is authorised to establish.⁸ Trial by jury. New courts.

§ 9. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, is forever to be allowed in this state to all mankind; but the liberty of conscience so secured, is not to be so construed as to excuse acts of licentiousness, or to justify practices inconsistent with the peace or safety of this state.⁹ Religious worship.

§ 10. The privilege of the writ of habeas corpus cannot be suspended, unless when in cases of rebellion or invasion, the public safety may require its suspension.¹⁰ Writ of habeas corpus.

§ 11. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, ought not to be violated; and no warrants can issue but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.¹¹ Search warrants.

§ 12. No person can be held to answer for a capital or otherwise infamous crime, (except in cases of impeachment; and in cases of the militia when in actual service, and of the land and naval forces in time of war, or which this state may keep, with the consent of congress, in time of peace; and in cases of petit larceny, under the regulation of the legislature,) unless on presentment or indictment of a grand jury; and in every trial on impeachment or indictment, the Accusations of crimes.

(4) 1 R. L. 48, § 12. (5) Cons. art. 7, § 5. (6) 1 R. L. 48, § 13; 3d amendt. to cons. U. S. (7) 1 R. L. 47, § 2 & 5; Cons. art. 7, § 1. (8) Cons. art. 7, § 2. (9) *Ib.* § 8. (10) *Ib.* § 8. (11) 4th amendt. const. U. S.

CLASP. 4. party accused is to be allowed counsel as in civil actions, or he may appear and defend in person.¹²

Criminal proceedings. **Private property.** § 13. No person can be subject for the same offence, to be twice put in jeopardy of life or limb: nor can he be compelled in any criminal case to be a witness against himself: nor be deprived of life, liberty or property, without due process of law: nor can private property be taken for public use, without just compensation.¹³

Rights of accused persons. § 14. In all criminal prosecutions, the accused has a right to a speedy and public trial, by an impartial jury, and is entitled to be informed of the nature and cause of the accusation: to be confronted with the witnesses against him: and to have compulsory process for obtaining witnesses in his favor.¹⁴

Justice to be speedy. **Process.** § 15. Neither justice nor right should be sold to any person, nor denied, nor deferred: and writs and process ought to be granted freely and without delay, to all persons requiring the same, on payment of the fees established by law.¹⁵

Fines. § 16. No citizen of this state ought to be fined or amerced without reasonable cause, and such fine or amercement should always be proportioned to the nature of the offence.¹⁶

Bail, &c. § 17. Excessive bail ought not to be required, nor excessive fines imposed, nor cruel nor unusual punishments inflicted.¹⁷

Elections. § 18. All elections ought to be free; and no person by force of arms, malice, menacing, or otherwise, should presume to disturb or hinder any citizen of this state in the free exercise of the right of suffrage.¹⁸

Right to petition. § 19. It is the right of the citizens of this state to petition the governor, or either house of the legislature; and all commitments and prosecutions for such petitioning are illegal.¹⁹

Liberty of speech, &c. § 20. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law can be passed to restrain or abridge the liberty of speech or of the press.²⁰

Prosecutions for libels, proceedings. § 21. In all prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party is to be acquitted; and the jury have the right to determine the law and the fact.²¹

(12) Cons. art. 7, § 7. (13) *Ib.* (14) 6th amendt. cons. U. S. (15) 1 R. L. 43, § 6 (16) *Ib.* § 7. (17) *Ib.* § 8; 6th amendt. to cons. U. S. (18) 1 R. L. 43, § 9. (19) *Ib.* § 10. (20) Cons. art. 7, § 8.

CHAP. V.

TITLE I.


Of the Public Officers of this State, other than Militia and Town Officers; their election or appointment; their qualifications, and the tenure of their offices.

TITLE 1.—Of the number, location, and classification of the public officers of the state.

TITLE 2.—Of legislative officers.

TITLE 3.—Of executive officers.

TITLE 4.—Of judicial officers.

TITLE 5.—Of administrative officers.

TITLE 6.—General provisions applicable to all the civil officers of this state, or to certain classes of them.

TITLE I.

OF THE NUMBER, LOCATION, AND CLASSIFICATION OF THE PUBLIC OFFICERS OF THE STATE.

Sec. 1. Names and number of the several civil officers.

2. Common Councils of cities (except New-York) to determine the number of commissioners of deeds and notaries.

3. Copy of such determination to be transmitted to governor.

4. Nominations to be made conformably to such determination.

5. County courts to determine number of commissioners of deeds in towns.

6. Such commissioners not to be increased unless in conformity to such determination.

7. What offices to be vacated under this chapter.

8. In certain cases no new appointment to be made.

9. Circuit judges, &c. where to reside.

10. County judges and recorders where to reside.

11. Surrogates, &c. local officers.

12. Justices of the peace where to reside, &c.

13. Commissioners of deeds where to reside, &c.

14. Notaries public where to reside, &c.

15. Sheriffs, &c. where to reside.

16. Administrative officers confined in the execution of their duties.

SECTION 1. There shall be elected or appointed, in the manner herein after declared or prescribed, the following civil officers, who shall be arranged in classes to be denominated legislative, executive, judicial and administrative; but this classification shall not be construed as defining the legal powers of the officers, that shall be assigned to either class:

Classification
of the civil
officers.

1. In the class of Legislative Officers,

Thirty-two senators;

One hundred and twenty-eight members of the assembly;

A speaker of the house of assembly from its own body;

A clerk, a sergeant-at-arms, a door-keeper, and so many assistant door-keepers, messengers, and other subordinate officers for each house of the legislature, as such houses shall respectively deem necessary.

Legislative.

TITLE 1.

Executive.

2. *In the class of Executive Officers,*

- A governor and lieutenant-governor ;
- A secretary of state, a comptroller, a treasurer, an attorney-general, a surveyor-general, and a state printer ;
- A private secretary for the governor, and a door-keeper of the executive chamber.

3. *In the class of Judicial Officers,*Judicial.
Chancery.

A chancellor, a register of the court of chancery, to reside and keep his office in the city of Albany, and an assistant register of the same court, to reside and keep his office in the city of New-York ;

A clerk of the said court, to reside and keep his office in the village of Poughkeepsie, and a clerk thereof, to reside and keep his office in the village of Utica ;

A sergeant of said court, to reside in the city of Albany, and a sergeant thereof, to reside in the city of New-York ;

Five masters and two examiners in chancery in the city and county of New-York, and not more than three masters and three examiners in every other county of this state ;

So many commissioners to take affidavits to be read in the said court, as the chancellor shall from time to time think proper to appoint ;

Supreme
court.

A chief justice and two justices of the supreme court ; three clerks of the said court, one to reside and keep his office in the city of Albany, one in the city of New-York, and one in the village of Utica ; and three criers of the said court, one to reside in Albany, one in New-York, and one in the county of Oneida ;

A commissioner to perform the duties of a justice of the supreme court at chambers, to be denominated " Supreme Court Commissioner," to reside in each of the following counties and places : In the counties of Allegany, Cattaraugus, Chautauque, Erie, Franklin, Genesee, Herkimer,¹ Lewis,² Madison,³ Niagara, Oneida, Ontario, Orange, St. Lawrence, Suffolk,⁴ Sullivan, Tompkins, Ulster and Westchester ;⁵ one to reside either in the county of Tioga or in the county of Steuben ; in the town of Plattsburgh, in the county of Clinton ; in the village of Catskill, in the county of Greene ;⁶ in the village of Poughkeepsie, in the county of Dutchess ; in the village of Watertown, in the county of Jefferson ; in the village of Canajoharie, in the county of Montgomery ;⁷ in the village of Glen's Falls, in the county of Warren ;⁸ in the town of Kingsbury, in the county of Washington ; and in the town of Whitehall, in the county of Washington ;

So many commissioners to take affidavits to be read in the supreme court, as the justices thereof shall think proper to appoint ;

(1, 3 & 5) Laws of 1828, chap. 237, April 17, 1828. (2 & 4) Laws of 1826, chap. 2, January 7, 1826. (6) Laws of 1828, chap. 133, March 26, 1828. (7 & 8) Laws of 1833, chap. 244, April 18, 1833.

A clerk of the court for the trial of impeachments and the correction of errors, a crier, and a sergeant of the same court ;

TITLE I.
Court of errors.
Reporters.

A reporter of the decisions of the supreme court, and of the decisions of the court for the trial of impeachments and the correction of errors, to be denominated the "state reporter ;"

A reporter of the decisions of the court of chancery, to be denominated the "chancery reporter ;"

A circuit judge for each of the eight circuits, and a clerk of the court of equity of each circuit ;

Circuit courts.

A first judge and four judges of the county courts of each county, except the city and county of New-York, in which there shall be a first judge of the court of common pleas ;⁹

County courts.

A chief justice and two associate judges of the superior court of law in and for the city and county of New-York ;¹⁰

A clerk, a sheriff, a surrogate, and a district attorney for each county ;

Clerks, &c.

A coroner for the city and county of New-York, and four coroners for every other county ;

Coroners.

A register of the city and county of New-York, and a clerk of the court of oyer and terminer and general sessions of the same city ;

New-York.

A recorder of each of the cities of Albany, New-York, Hudson and Troy ;

Recorders.

A clerk of the city of Hudson, and a marshal for each of the cities of Hudson and Troy ;

Clerks of cities.

Three special justices for the city of New-York, and a clerk of the police office in said city ;

Special justices.

Three justices of the marine court for the city of New-York, and a clerk of said court ;

An assistant justice for the first, second, and third wards ; an assistant justice for the fourth and sixth wards ; an assistant justice for the fifth, eighth and fourteenth wards ; an assistant justice for the seventh, tenth and thirteenth wards ; an assistant justice for the ninth and eleventh wards, and a clerk to each of the said assistant justices, and two assistant justices for the twelfth ward of the city of New-York ;

Three justices of the justices' court of the city of Albany, and a clerk of said court ;

A justice of the peace for the fifth ward of the city of Albany ;¹¹

Three justices of the justices' court of the city of Hudson, and a clerk of said court ;

Not less than three nor more than six justices of the peace for the city of Schenectady ;

Four justices of the peace for each town in the state ;

Justices.

Not less than two, nor more than four commissioners to take the proofs and acknowledgments of deeds, and to perform certain other

Commissioners of deeds.

(9) Laws of 1828, chap. 321, April 21, 1828. (10) *Ib.* (11) Laws of 1828, chap. 178, April 8, 1828.

TITLE 1. duties, to be denominated "commissioners of deeds," for each town in the state, and so many of the like commissioners for each of the cities in this state, as shall from time to time be determined in the manner herein after provided ;

Thirty-six commissioners of deeds for the city and county of New-York ;

Notaries public.

Fifty notaries public in the city and county of New-York ;

So many notaries public in each of the other cities of this state, as shall from time to time be determined, in the manner herein after provided ;

So many notaries public in each of the counties of this state, except the city and county of New-York, as the governor and senate shall think proper to appoint ;

Counsellors, &c.

And so many counsellors, solicitors and attornies, as shall from time to time, be licensed to practice by the several courts of law or equity in this state.

4. *In the class of Administrative Officers,*

Administrative.
Canal officers.

Four canal commissioners, two of whom shall be acting commissioners ;

Two canal appraisers, and so many superintendents of canal repairs as the canal board shall from time to time appoint ;

Mayors, &c.

A mayor of each of the cities in this state ;

A president of the village of Utica ;

County treasurers.

A county treasurer for each county, except the city and county of New-York ;

Loan-officers.

Loan-officers under the act of the fourteenth of April, one thousand seven hundred and ninety-two, entitled "An act for loaning monies belonging to this state," for each county in which vacancies shall occur in the office of any such officer ;

Commissioners of loans under the act of the eleventh of April, one thousand eight hundred and eight, entitled "An act authorising a loan of monies to the citizens of this state," for each county in which vacancies shall occur in the office of any such officer ;

Loan-officers for the county of Putnam, whenever vacancies shall occur in the office of any such officer :

Prison inspectors

Five inspectors of the state prison at Auburn ;

Salt springs.

A superintendent of the Onondaga salt springs, and an inspector of salt in the county of Onondaga ;

A superintendent of the salt springs at Montezuma ;

Harbor masters, &c.

Three harbor-masters of the port of New-York, and so many wardens and branch pilots for the same port, as the governor and senate shall think proper to appoint ;

Auctioneers.

Not more than fifty-four auctioneers for the city and county of New-York, four for the city and county of Albany, and one or more for every other city, village or county, where they shall be deemed necessary by the appointing power ;

An inspector of flour and meal for each of the cities of Albany and New-York, and one or more such inspectors in every other city or county, where they shall be deemed necessary by the appointing power ;

TITLE 1.
Inspectors of flour.

An inspector of beef in the city of New-York, to inspect and put up beef, killed according to the rites of the people called Jews ;

Inspector of beef, &c.

Not more than ten inspectors of beef and pork for the city and county of New-York, and one or more such inspectors in every other county where they shall be deemed necessary, by the appointing power ;

One inspector of pot and pearl ashes for the city and county of New-York, and not more than two such inspectors in every other county where they shall be deemed necessary by the appointing power ;

Inspectors of ashes.

Not less than seven, nor more than ten inspectors of lumber for the city and county of New-York; not less than two, nor more than four for the city of Albany ; one for the city of Hudson ; and so many in other parts of the state, as may be deemed necessary by the appointing power ;

Inspectors of lumber.

An inspector-general of staves and heading for the city and county of Albany, and one for the city and county of New-York ;

Inspectors of staves and heading.

Not less than eight, nor more than ten cullers of staves and heading, for the city and county of New-York ; not less than four, nor more than six, for the city and county of Albany ; two or more for the city of Hudson, and so many in the other counties as shall be deemed necessary by the appointing power ;

Cullers of do.

Five inspectors of sole-leather for the city and county of New-York ; two for the city and county of Albany ; two for the city of Troy ; one for each of the cities of Hudson and Schenectady ; one for the village of Brooklyn, in the county of Kings ; one for the village of Catskill, in the county of Greene ; one for the port of Saggharbour, in the county of Suffolk ; one for the village of Lansingburgh, in the county of Rensselaer ; one for the village of Waterford, in the county of Saratoga ; one for the village of Utica, in the county of Oneida ; one for the village of Ithaca, in the county of Tompkins ; one for the village of Auburn, in the county of Cayuga ; one for the village of Rochester, in the county of Monroe ; one for the village of Newburgh, in the county of Orange ; one for the village of Batavia, in the county of Genesee ; one for the county of Lewis ; one for the county of Onondaga ; one for the county of Herkimer ; one for the county of Montgomery ; one for the county of Madison ; one for the county of Ulster ; one for the county of Oneida ; one for the county of Jefferson ; two for the county of Ontario, one of whom shall reside in the village of Geneva ; and so many such inspectors for the several other counties or villages in this state, as shall be deemed necessary by the appointing power ;

Inspectors of sole-leather.

An inspector of flaxseed for the city and county of New-York ;

Inspector of flaxseed.

- TITLE 1.** An inspector of leaf tobacco for the city and county of New-York;¹²
- Inspectors of tobacco.** Four inspectors of fish for the city of New-York; one for the county of Jefferson; one for each of the towns of Richland, and Orwell, in the county of Oswego; and one or more in the other counties of the state, as may be deemed necessary by the appointing power;
- Inspectors of fish.** An inspector of fish or liver oil, for each of the cities of New-York, Albany and Troy;
- Inspectors of oil.** An inspector of distilled spirits, for the city of New-York; and one for each other county of the state, where such an appointment shall be deemed necessary by the appointing power;
- Inspectors of spirits.** An inspector of hops for each of the cities of New-York, Albany and Troy; and for each of the villages of Utica, Oswego, Buffalo, Ithaca and Whitehall;
- Inspectors of hops.** One weigher at the quarantine ground, on Staten Island;
- Weigher.** A health officer, a resident physician, and a health commissioner, for the city and county of New-York;
- Health officers.** A health officer for the city of Albany, and one for the city of Hudson;
- Bank directors.** So many directors of incorporated banks as the state may be authorised, by the acts of incorporation, to appoint;
- Wreck-masters.** Fifteen wreck-masters, in the county of Suffolk; twelve in the county of Queens; three in the county of Kings; two in the county of Richmond, and two in the county of Westchester;
- County sealers.** A county sealer for each county; and the sealers for the counties of Albany and Oneida, shall be deemed assistant state sealers;
- Inspectors of turnpikes.** Not less than three, nor more than five commissioners to inspect turnpike roads, in each county in this state, in which there shall be a turnpike road whose act of incorporation contains no provision for the appointment of special inspectors of such road;
- India officers.** An agent for the Onondaga tribe of Indians, five or more superintendents; and not less than three, nor more than five superintendents of the Brothertown Indians;
- An attorney for the Oneida Indians;
- Receiver at Sagg-Harbour.** And a receiver of the profits of the state pier at Sagg-Harbour.¹³
- Commissioners of deeds and notaries in certain cities how limited.** § 2. The common council of each of the cities in this state, except the city of New-York, on or before the first day of January in the year one thousand eight hundred and thirty, and once at the end of every two years thereafter, shall, by resolution of the board, determine and limit the number of commissioners of deeds and notaries public to be next appointed in and for their respective cities.

(12) Laws of 1823, chap. 274, April 19, 1823. (13) Compiled from the constitution and from the statutes in force in September, 1827, except where otherwise specially noted; and except also, that the limitations of the number of masters and examiners in chancery, of commissioners of deeds and public notaries in cities, of acting canal commissioners, of inspectors of pot and pearl ashes in the city of New-York, and of wreck-masters, are new provisions.



§ 3. A copy of each determination to be made by the common council of any city, under the corporate seal, and attested by the mayor of the city, shall be transmitted to the governor within twenty days after the same shall have been made.

TITLE I.
lb.

§ 4. No nomination or appointment shall be made by the governor to any of the offices so limited, as stated in the preceding sections, unless in conformity to the limitation.

§ 5. The judges of the county court in each county, shall, at each county court, next preceding the annual meeting of the judges and supervisors for the purpose of appointing commissioners of deeds, determine by rule of court the number of commissioners of deeds in each town of the county, for the year next ensuing such annual meeting.

Commissioners of deeds in towns.

§ 6. At such annual meeting, no increase shall be made in the number of such commissioners in any town, unless in conformity to such previous determination of the judges.

§ 7. No limitation contained in this Chapter, or to be made in the mode herein prescribed, of the number of persons to be appointed to any office, shall be construed to vacate the office of any persons now being, or who shall then be in office; except commissioners of deeds and notaries public in cities, whose offices shall be vacated on the first day of January one thousand eight hundred and thirty.

Offices when vacated.

§ 8. If, at the expiration of the term of office of any one or more persons holding any of the offices so limited or to be limited, the number of persons holding the same office shall exceed the limitation then in force, no nomination or appointment of any one or more persons shall be made to such office for the district, county or place to which the limitation applies, until the number of persons holding the same shall be so reduced, as not to exceed the limitation then in force.

When no new appointment to be made.

§ 9. The offices of circuit judge, supreme court commissioner, and of master and examiner in chancery, shall so far be deemed local, as to require the residence of each judge, master and examiner, within the circuit, district, county or place, for which he shall be appointed.¹⁴

Circuit judges, &c. how far local officers.

§ 10. Judges of county courts, and recorders of cities, must reside within the county or city for which they shall be respectively appointed.

County judges and recorders.

§ 11. Surrogates, supreme court commissioners, commissioners of deeds, and justices in cities, are local officers; and each officer shall be confined, in the execution of his duties, to the district or county for which he shall be appointed.

Surrogates, &c.

(14) Laws of 1828, p. 214, § 14, as to circuit judges.

TITLE 2.

Justices.

§ 12. Justices of the peace must reside in the town for which they were chosen; and shall not try a civil cause in any other town, except in cases otherwise provided for by law.

Commissioners of deeds.

§ 13. Commissioners of deeds must reside within the respective towns for which they shall be chosen or appointed, but may execute the duties of their office at any place within the county.

Notaries.

§ 14. Notaries public must reside in the respective cities or counties for which they shall be appointed, but may execute the duties of their office at any place within the state.

Sheriffs, &c.

§ 15. The following officers, namely; sheriffs, clerks of counties, coroners, district attorneys, marshals of cities, the clerk of the court of oyer and terminer and general sessions in New-York, the register and clerk of that city, police justices and assistant justices in that city, and their clerks, are so far local, as to require the residence of every person holding such office, within the county or city, in which the duties of his office are required by law to be executed.

Administrative officers.

§ 16. Every officer included in the class of administrative officers, shall be confined in the execution of his duties, to the district, county, city, town, or village for which he shall be appointed, except where otherwise provided for by law.

TITLE II.

OF LEGISLATIVE OFFICERS.

Sec. 1. Senators and members of assembly for what term chosen.

2. How chosen.

3. Qualifications of senators: proceedings when two or more are chosen to ascertain their terms of service.

4. Members of the legislature ineligible to certain civil appointments.

5. Persons holding offices under U. States, ineligible to seat in legislature. If members of legislature accept offices under U. States, their seats vacated.

6. When members of legislature elected to congress shall be deemed to have accepted.

7. Members of legislature not to be appointed to certain offices by the governor.

8. When senate to choose a temporary president.

9. When president of the senate to act as governor.

Senators, &c.
term of office.

§ 1. Senators and members of assembly are chosen by the people; senators for four years, members of assembly annually.¹⁵

How chosen.

§ 2. Senators are chosen by districts; members of assembly by counties. One senator must be chosen annually in each senate district, and at least one member of the assembly in each county of the state, separately organized.¹⁶

Qualifications of senators, &c.

§ 3. Senators must be freeholders; and whenever two or more senators shall be chosen at any election, one or more of whom shall be chosen to supply a vacancy, and one for the regular term, it shall be de-

terminated by lot, in such manner as the senate shall direct, which of them shall be considered as elected for the longest term, without regarding any designation upon the ballots given for the persons so chosen.¹⁷ TITLE 3.

§ 4. No member of the legislature can receive any civil appointment from the governor and senate, or from the legislature, during the term for which he shall have been elected.¹⁸ Ineligible to certain offices.

§ 5. No person, being a member of congress, or holding any judicial or military office under the United States, can hold a seat in the legislature. If any person shall, while a member of the legislature, be elected to congress, or be appointed to any office civil or military under the government of the United States, his acceptance thereof shall vacate his seat in the legislature.¹⁹ U. States offices.

§ 6. If a person elected a member of the legislature, shall, during the term for which he was chosen, be elected a member of congress, he shall be deemed to have accepted the office of member of congress, unless within ten days after the commencement of the term of service as such member, he shall give written notice to the secretary of state, of his determination not to accept such election to congress.

§ 7. No person elected to either branch of the legislature, shall be appointed by the governor to any office, during the term for which such person shall have been elected; but this prohibition shall not extend to those officers whose appointment is, by the constitution, vested in the governor.²⁰ Further ineligibility to office.

§ 8. Whenever the lieutenant-governor shall act as governor, or shall not attend the senate, that house shall choose a temporary president from its own body, to serve until the lieutenant-governor shall return to preside therein.²¹ Temporary president of the senate when to be chosen.

§ 9. If during a vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or be absent from the state, the president of the senate, so chosen, shall act as governor, until the vacancy shall be filled, or the disability shall cease; and the senate shall choose from its own body, another person to preside therein.²² When to act as governor.

TITLE III.

OF EXECUTIVE OFFICERS.

Sec. 1. Governor and lieutenant-governor when to be chosen.

2. Proceedings when two or more candidates receive an equal number of votes for governor.

3. The like as to candidates for lieutenant-governor.

(17) Cons. art. 1, § 2; Laws of 1834, p. 317. (18) Cons. art. 1, § 10. (19) Cons. art. 1, § 11. (20) Laws of 1823, p. 244, § 3. (21) Cons. art. 1, § 8. (22) Cons. art. 3, § 7.

TITLE 3. SEC. 4. Qualifications required for governor.

- 5 & 6. Secretary of state, comptroller, attorney-general, and surveyor-general how and when appointed.
7. Tenure of their offices.
8. Treasurer how and when appointed.
9. Nominations of state officers when to be made.
10. Proceedings thereupon in case the nominations agree.
11. Proceedings in case they disagree.
12. State printer how appointed and tenure of his office.
13. Governor's private secretary and door-keeper of executive chamber, how appointed.

Governor and lieutenant-governor.

§ 1. A governor and lieutenant-governor shall be chosen at each biennial general election, from and after the general election in November, one thousand eight hundred and twenty-two.²³

Equality of votes for governor.

§ 2. In case two or more persons receive an equal and the highest number of votes for governor, at any election, it shall be the duty of the board of state canvassers to lay before the legislature, on the first day of its next session after such election, a certified statement of the votes canvassed by them; and the two houses shall immediately proceed to choose, by joint ballot, one of those persons having such equal number of votes, to be governor.²⁴

The like for lieutenant-governor.

§ 3. In case two or more persons shall receive an equal and the highest number of votes for lieutenant-governor, a statement of the canvass of such votes shall in like manner be laid before the legislature; and the two houses shall proceed in the same manner to choose by joint ballot, one of those persons having such equal number of votes, to be lieutenant-governor.²⁴

Qualifications of governor.

§ 4. No person is eligible to the office of governor, unless he shall be,

1. A native citizen of the United States;
2. A freeholder;
3. Thirty years of age;
4. And shall have been five years a resident within this state, unless he shall have been absent during that time, on public business of the United States or of this state.²⁵

State officers how appointed.

§ 5. The secretary of state, the comptroller, the attorney-general, and the surveyor-general, are appointed by the legislature, as follows: The senate and assembly each openly nominate one person for each of those offices respectively, or for such of them as are then to be filled; after which, they meet together; if the nominations are found to agree, the person nominated is declared to be appointed; if the nominations do not agree, the appointment is then made by the joint ballot of the senators and members of assembly.²⁶

And when.

§ 6. Such appointment shall be made once in every three years, from and after the first Monday of February, in the year one thousand

(23) Cons. art. 3, § 1; Laws of 1822, p. 267, § 1. (24) Cons. art. 3, § 3. (25) Cons. art. 3, § 2. (26) *Ib.* art. 4, § 6.

eight hundred and twenty-three; or as often as vacancies shall occur. ART. 1.

§ 7. The persons so appointed, hold their offices for three years, ^{Tenure of their office.} unless sooner removed by a concurrent resolution of the senate and assembly.²⁶

§ 8. The treasurer is appointed by the legislature in the same ^{Treasurer.} manner, and such appointment is made annually.²⁶

§ 9. The senate and assembly shall proceed to nominate each of ^{Nominations of state officers.} the several state officers above named, on the first Monday of February in each year, during which his term of office shall expire. If an appointment shall be necessary to supply an existing vacancy, they shall fix, by concurrent resolution, the day on which they will proceed to nominate for such appointment.

§ 10. If, on the comparison of such nominations they be found to ^{Proceedings in case they agree.} agree, the president of the senate shall declare such agreement, and that the persons so nominated are chosen. Copies of the resolutions of the two houses by which such nominations were made, shall be certified by the respective presiding officers thereof, and attested by their clerks; which shall be delivered to the person appointed, and shall be evidence of his appointment.

§ 11. If the nominations disagree, and the officer be chosen by a ^{In case they disagree.} joint ballot, the result of such ballot shall be certified by the presiding officers of the two houses, and attested by the clerks thereof; which certificate shall be delivered to the person so chosen, and shall be evidence of his appointment.

§ 12. The state printer shall be appointed by law, and shall hold ^{State printer.} his office during the pleasure of the legislature.

§ 13. The private secretary of the governor, and the door-keeper ^{Governor's private secretary, &c.} of the executive chamber, shall be appointed by the governor, and hold their respective offices during his pleasure.

TITLE IV.

OF JUDICIAL OFFICERS.

ART. 1.—Of judicial officers appointed by the governor and senate.

ART. 2.—Of judicial officers appointed by courts of justice.

ART. 3.—Of judicial officers appointed by the local authorities of a county or city.

ART. 4.—Of judicial officers elected by the people.

ARTICLE FIRST.

Of Judicial Officers appointed by the Governor and Senate.

Sec. 1. Chancellor, judges, &c. how appointed.

2. Tenure of offices of chancellor, justices of the supreme court and circuit judges.

(26) Cons. art. 4, § 6.

- TITLE 4.** Sec. 3. Chancellor, justices of the supreme court, and circuit judges can hold no other office.
4. Judges of county courts, &c. hold for five years, subject to removal.
 5. If office of first judge be vacant, governor to designate a successor in his nomination.
 6. Tenure of office of masters and examiners in chancery.
 7. Masters in chancery required to be counsellors or solicitors.
 8. Masters and examiners prohibited from acting in certain cases.
 9. Surrogates, &c. how appointed.
 10. Tenure of their offices.
 11. Supreme court commissioners required to be counsellors at law.
 12. Marshals of Hudson and Troy how appointed.

Chancellor,
&c. how ap-
pointed.

§ 1. The chancellor, the justices of the supreme court, and the circuit judges, the judges of county courts, the recorders of cities, and masters and examiners in chancery, are nominated by the governor, and appointed by him, with the consent of the senate. The chief justice and associate judges of the superior court of law, in and for the city and county of New-York, shall be nominated and appointed in the same manner.²⁷

Tenure of
certain off-
ces.

§ 2. The chancellor, the justices of the supreme court and the circuit judges, hold their offices during good behaviour, or until they respectively attain the age of sixty years; but may be removed by a joint resolution of the two houses of the legislature, if such resolution be concurred in by two-thirds of all the members elected to the assembly, and a majority of all the members elected to the senate.²⁸

Can hold no
other office.

§ 3. Neither the chancellor, nor a justice of the supreme court, nor a circuit judge, can hold any other office or public trust; and all votes given to either of them, for any elective office, either by the legislature or the people, during his continuance in his judicial office, are void.²⁹

Judges of
county
courts, &c.

§ 4. Judges of county courts, recorders of cities, the first judge of the court of common pleas in the city and county of New-York, the chief justice and associate judges of the superior court of law in and for the said city and county, hold their offices for five years; but may be removed by the senate, on the recommendation of the governor, for causes to be stated in such recommendation.³⁰

Vacancy in
office of first
judge.

§ 5. If the office of first judge in any county shall become vacant, the governor, in his nomination to the senate, of a person to supply such vacancy, shall designate him as first judge of such county.

Masters and
examiners in
chancery.

§ 6. Masters and examiners in chancery hold their offices for three years; but may be sooner removed by the senate, on the recommendation of the governor.³¹

Qualifica-
tions of mas-
ters in chan-
cery.

§ 7. No person shall be appointed a master in chancery, who shall not be, at the time of such appointment, of the degree of counsellor of the supreme court, or of solicitor or counsellor in the court of chancery.³²

(27) Cons. art. 4, § 7 & 12, and laws of 1823, chap. 137, March 31, 1828, § 3; lb. chap. 321, § 1. (28) Cons. art. 5, § 3 & 5, and art. 1, § 13. (29) Cons. art. 5, § 7. (30) Cons. art. 5, § 6, and laws of 1823, chap. 371, April 21, 1828. (31) Cons. art. 4, § 12. (32) Laws of 1818, p. 44, § 8.

§ 8. No master or examiner in chancery shall act as such, either in the court of chancery, or in any of the equity courts of this state, in any cause or matter in which he shall be solicitor or counsel, or which shall be prosecuted, defended, or in any manner managed or directed, by any solicitor or counsellor, with whom such master or examiner shall be directly or indirectly connected in business.²³

ART. 2.
Masters and examiners not to act in certain cases.

§ 9. Surrogates; supreme court commissioners; commissioners of deeds within the city and county of New-York, and in the several cities of this state; notaries public; justices of the marine court in the city of New-York; justices of the justices' court in the cities of Albany and Hudson, and all other justices in cities, except those of whom the constitution directs the mode of appointment, shall be nominated by the governor, and appointed by him, with the consent of the senate.²⁴

Surrogates, &c. how appointed.

§ 10. The justices of the marine court in the city of New-York, shall hold their offices for five years; all the justices mentioned in the preceding section, and surrogates, shall hold their offices for four years; the other officers named in the preceding section, shall hold their offices for two years.²⁴

Tenure of their offices.

§ 11. No person shall be appointed a supreme court commissioner, unless he be at the time a counsellor at law of the supreme court.

Supreme court commissioner.

§ 12. The marshal of the city of Hudson, and the marshal of the city of Troy, shall be appointed by the governor, with the consent of the senate, and shall hold their offices respectively for three years.²⁵

Marshals of Hudson and Troy.

ARTICLE SECOND.

Of Judicial Officers appointed by Courts of Justice.

Sec. 13. Clerk of oyer and terminer in New-York how appointed and tenure of his office.

14. Other clerks of courts how appointed; clerk of mayor's court in Hudson to be clerk of the city.

15. District attornies how appointed. Must be counsellors.

16. Tenure of office of clerks and district attornies.

17. Registers in chancery how appointed; tenure of their offices.

18. Reporters how appointed; tenure of their offices.

19. Must be counsellors of five years standing.

20. Counsellors, solicitors and attornies how appointed.

21. Supreme court and chancellor to prescribe rules and regulations as to appointment of counsellors, &c.

22. Solicitors and counsellors licensed in chancery, authorised to practice in all the courts of equity.

23. Counsellors, &c. may be removed or suspended; tenure of their offices.

24. Causes of removal.

25. Effect of removal.

26. Clerks and registers prohibited from practising as counsellors, &c.

27. Sheriffs and coroners also prohibited.

28. Other officers of courts how appointed.

§ 13. The clerk of the court of oyer and terminer and general sessions of the peace in the city and county of New-York, is appointed

Clerk of oyer and terminer in New-York.

(23) Laws of 1824, p. 38, § 2. (24) Laws of 1822, p. 62, § 7 & 8; lb. p. 242, § 1. (25) Laws of 1824, p. 315, § 1, as to Troy.

TITLE 4. by, and holds his office during the pleasure of the court of general sessions of the peace in that city.³⁶

Other clerks
of courts.

§ 14. Clerks of courts, except those whose appointment is otherwise provided for, are appointed by the courts of which they respectively are clerks.³⁷ The clerk of the mayor's court of the city of Hudson, shall, by virtue of his office, be clerk of said city.

District attor-
neys how
appointed.

§ 15. District attorneys are appointed by the judges of the county courts of the respective counties. No person shall be appointed a district attorney, unless he be at the time a counsellor at law of the supreme court; but if there be no such counsellor residing in the county, or none willing to accept the office, an attorney at law may be appointed.³⁸

Clerks and
district attor-
neys, tenure of
their offices.

§ 16. Such clerks appointed by courts, and district attorneys, hold their offices for three years, but may be sooner removed by the court appointing them.³⁹

Registers in
chancery.

§ 17. The register and assistant-register in chancery, are appointed by the chancellor, and hold their offices during his pleasure.⁴⁰

Reporters.

§ 18. The state reporter shall be appointed by the lieutenant-governor, the chancellor and chief justice, and hold his office during their pleasure. The reporter in chancery shall be appointed by, and hold his office during the pleasure of, the chancellor.⁴¹

Ib.

§ 19. No person shall be appointed a reporter, who shall not be, at the time of his appointment, a counsellor at law or in chancery, of at least five years standing.

Counsellors,
&c.

§ 20. Counsellors, solicitors and attorneys, shall be appointed and licensed to practise by the several courts of law and equity in which they intend to practice. Their licenses shall be signed by the chancellor, chief justice, or presiding judge of the courts by which they shall respectively be appointed.⁴²

Ib.

§ 21. The supreme court shall prescribe the rules and regulations under which counsellors and attorneys shall be appointed and licensed in that court, and the chancellor, those under which counsellors and solicitors shall be so appointed and licensed in the court of chancery, and the several courts of equity.⁴²

Ib. their au-
thority.

§ 22. All solicitors and counsellors, licensed in the court of chancery, shall be authorised to practice as such in all the courts of equity.⁴²

Ib. tenure of
office.

§ 23. Counsellors, solicitors and attorneys may be removed or suspended by the several courts in which they shall be appointed;

(36) Cons. art. 4, § 13. (37) Cons. art. 4, § 9. (38) Laws of 1818, p. 306, § 4; 1824, p. 314, § 2. (39) Cons. art. 4, § 9. (40) Ib. § 12. (41) Laws of 1823, p. 208 § 3; 1825, p. 365. (42) Laws of 1823, p. 216, § 19.

but subject to such removal and suspension, they hold their offices during life.⁴³ ART. 2

§ 24. Any counsellor, solicitor or attorney, may be removed or suspended, who shall be guilty of any deceit, mal-practice or misdemeanor;⁴⁴ but not until a copy of the charges against him, shall have been delivered to him, by the clerk of the court in which the proceedings shall be had, and an opportunity shall have been given to him, of being heard in his defence. Counsellors, & c. their removal.

§ 25. The removal or suspension of any counsellor, solicitor or attorney, by the chancellor or the supreme court, from their respective courts, shall operate as a removal or suspension in every court in the state; but in every other case, the removal or suspension shall be confined to the court in which it shall be declared.

§ 26. No clerk, deputy clerk, register, assistant-register, or deputy-register of any court, shall, during his continuance in office, practice in such court as a counsellor, solicitor or attorney.⁴⁵ Who may not practice.

§ 27. No sheriff, under-sheriff, deputy-sheriff, sheriff's clerk, or coroner, shall, during his continuance in office, practice as a counsellor, solicitor or attorney, in any court of law or equity.⁴⁵

§ 28. All officers of courts, other than those above mentioned, shall be appointed by the courts of which they shall respectively be officers, and shall hold their offices during the pleasure of the court so appointing them. Other officers of courts how appointed.

ARTICLE THIRD.

Of Judicial Officers appointed by the Local Authorities of a County or City.

Sec. 2. Commissioners of deeds in towns to be appointed by judges of county courts and boards of supervisors; mode of proceeding.

- 30. Supervisor ineligible.
- 31. Tenure of the office; how removed.
- 32. Causes of removal to be assigned.
- 33. Notice thereof to be given.
- 34. Special and assistant justices in New-York how appointed; and tenure of office.

§ 29. Commissioners of deeds in each town of the state shall be appointed in the manner following: Commissioners of deeds how appointed.

1. The judges of the county courts and the board of supervisors, in each county, shall meet in separate chambers on the day and at the place, of the annual meeting of the board of supervisors in their respective counties.

2. Each body, when so met, shall nominate in separate lists, the number of persons then to be appointed commissioners of deeds, in the several towns of the county.

3. They shall meet together, for the purpose of comparing their respective nominations, on the same day, or on the day following that on which such nominations shall have been made.

TITLE 4.

4. If they shall agree in whole or in part in such nominations, the persons on whom they so agree shall be appointed.

5. If they shall disagree in whole or in part in their nominations, they shall immediately proceed to elect by joint ballot from the persons nominated, so many as shall be necessary to complete the number of commissioners then to be appointed.

6. They shall make out a certificate of appointment, containing the names of the persons appointed by them.

7. The certificate shall be signed by the first or senior judge, and by the chairman of the board of supervisors, and shall be filed in the office of the clerk of the county.⁴⁵

Who ineligible.

§ 30. No supervisor shall be appointed a commissioner of deeds.⁴⁷

Tenure of office.

§ 31. Commissioners of deeds in towns, shall hold their respective offices for four years, but may be removed by the judges of the county courts.⁴⁸

Removal from office.

§ 32. The causes of such removal shall be assigned by the judges in writing, and shall be filed in the office of the clerk of the county.⁴⁹

Id.

§ 33. No commissioner of deeds shall be removed, until he shall have notice of the charges made against him, and an opportunity of being heard in his defence.⁴⁶

Justices in New-York.

§ 34. The special justices and the assistant justices, and their clerks, in the city of New-York, are appointed by the common council of that city. They hold their offices for the term of four years, and are removable by the county court in the same manner as justices of the peace in the towns.⁴⁸

ARTICLE FOURTH.

Of Judicial Officers elected by the People.

Sec. 35. Four justices to be elected in each town; tenure of their offices.

36. Not to be removed unless notice shall have been given, &c.

37. When a new town is erected, how justices to be elected.

38. Justices residing in such new town to be deemed justices thereof.

39. Supervisor of such town to give notice of meeting to determine the classes of justices elected therein.

40. Classes to be determined by drawing.

41. How to be determined in case less than four be elected.

42. If any justice neglects to attend, supervisor to draw for him. If supervisor be absent, &c. town clerk to act for him.

43. Certificates of drawing and of result, to be made, filed and recorded.

44. If by erecting or altering a town there be more than four justices therein, all to act.

45. If by such erection or alteration, a town be deprived of one or more justices, their places to be supplied.

46. Proceedings when two or more justices are elected to ascertain their terms.

47. Sheriffs, clerks of counties, and register and clerk of New-York how chosen.

48. Sheriffs can hold no other office, and can not be re-elected at expiration of their office.

49. Coroners when and how to be elected.

50. Sheriffs, clerks and coroners in new counties, when to be chosen.

Justices in towns.

§ 35. There shall be four justices of the peace in each town, divided into four classes, one of whom shall be annually elected in the

(45) Laws of 1828, p. 244, § 4. (47) Laws of 1828, p. 245, § 4. (48) Cons. art. 4, § 7 & 14.

manner prescribed in Chapter sixth of this Act. Each justice here-
 after chosen, shall hold his office for four years, except when elected
 to fill a vacancy, or on the erection of a new town as herein after
 prescribed ; and may be removed by the judges of the county courts.

ART. 4.

§ 36. No justice of the peace can be removed until he shall have
 notice of the charges made against him, nor until an opportunity be
 given him of being heard in his defence. The causes of such removal
 shall be assigned by the judges in writing, and be filed with the clerk
 of the court.

Removal
 from office.

§ 37. Whenever a new town shall be erected, an election for jus-
 tices therein shall be held at the next general election thereafter, un-
 less a special election shall be directed by law.

Justices in
 new towns.

§ 38. If there be one or more justices then residing in such new
 town, they shall be deemed justices thereof, and shall hold their offi-
 ces according to their respective classes ; and only so many justices
 shall be chosen as shall be necessary to complete the number of four
 for such town.

§ 39. After the election of justices in such new town, the supervisor
 thereof shall, within six days after the completion of the canvass by
 the county canvassers, give notice in writing, to the justices elected
 and to the town clerk, of the time and place where he will meet them,
 to determine by lot the classes of such justices ; which notices shall
 be served at least six days, and not more than twelve, previous to the
 time appointed therein for such meeting.

Th. notice of
 meeting to
 determine
 classes.

§ 40. At the time and place so appointed, the supervisor and town
 clerk shall cause to be written on separate pieces of paper, as near
 alike as may be, the numbers one, two, three, four, if there shall have
 been four justices elected, and shall cause them to be rolled up as
 nearly alike as may be, and deposited in a box. The persons elected
 justices shall severally draw one of the said pieces of paper, and
 shall be classed according to the number written on the paper so
 drawn by him, and shall hold his office for such number of years,
 either one, two, three or four, as shall correspond with such number
 so drawn.

Th. classes
 how deter-
 mined.

§ 41. If less than four justices shall have been chosen, then bal-
 lots shall be prepared as above directed, with numbers written there-
 on, to correspond with the numbers of the classes which shall be va-
 cant, and each person elected, shall, in like manner, proceed to draw
 one of the said ballots, and shall be classed according to the number
 so written on the ballot drawn by him, and shall hold his office ac-
 cording to such number.

§ 42. If any person elected a justice shall neglect to attend to such
 drawing, the supervisor shall draw for him. If the supervisor be ab-

Th. neglect to
 attend, &c.

any town or city, or village or hamlet, or any other place, the
 above said shall give the same return together and within the du-
 lity required of such electors.

Continued
of voting

§ 42. Inclusive returns of such electors, and of the result
 thereof, shall be made and certified to the supervisor and town clerk,
 or such one or more as shall attend the same, one of which shall be
 filed with the town clerk and the other with the county clerk, and
 shall be retained by the said clerk in the books in which the can-
 didates of voters shall have been reported, and shall be conclusive
 evidence of the respective classes in which the returns so elected jus-
 tices belong.

When more
than one
justice for
each class
is elected

§ 43. If in the election of a new town or the annexing of a part
 of one town to another, there should at any time be more than four
 justices residing in any town, they shall notwithstanding hold and ex-
 ercise their offices in the town in which they reside, according to
 their classes respectively. But in the election of the term of of-
 fice of two or more justices being in the same class, only one person
 shall be elected to fill the vacancy in such class.

Proceedings
when cannot
ascertain

§ 45. Whenever, in the election of a new town or the annexing
 of part of one town to another, any town shall be deprived of one
 or more justices, by their residence being within the part set off, the
 inhabitants of such town shall, at the next general election, supply
 the vacancy so produced in the classes to which such justices may be-
 long; and if two or more justices be elected, the same proceedings
 shall be had, as before directed, to determine their respective classes.

Proceedings
when elected
by several
towns

§ 46. Whenever there shall be two or more justices chosen at any
 election, one or more of whom shall be chosen to supply a vacancy,
 and one for the regular term, the class to which each justice shall be-
 long, and the term for which he shall serve, shall be determined by
 lot, in the presence of the supervisor and town clerk, within the time
 and in the manner herein before directed; the same notice shall be
 given, the same proceedings had, and the result certified with the
 like effect as before declared.

Sherrifs, &c.
in New
York

§ 47. Sheriffs and clerks of counties, and the register and clerk of
 the city and county of New-York, are chosen by the electors in the
 respective counties, once in every three years, and as often as vacan-
 cies occur.⁴⁹

Disqualification
of sherrifs

§ 48. Sheriffs can hold no other office, and are ineligible to the
 same office, for the next three years, after the termination of their of-
 fice.⁵⁰

Coroners

§ 49. One coroner in the city and county of New-York, and four
 in every other county in the state, shall be elected in the same man-

(49) Cons. art. 4, § 9. (50) Id.

ner and at the same general election as sheriffs, hold their offices for the same term, and be removable in like manner.⁵¹

TITLE 5.
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§ 50. The sheriffs, clerks and coroners first chosen in every county that may hereafter be erected, shall be elected at the general election next succeeding the erection of the county, or at such other time as the legislature shall direct.

Sheriffs in new counties.

**TITLE V.**

OF ADMINISTRATIVE OFFICERS.

- 1. Who commissioners of land-office.
- 2. Who commissioners of the canal fund.
- 3. Canal commissioners how to be appointed : tenure of their office.
- 4. Vacancies in the office of canal commissioner how to be supplied.
- 5. Canal board of whom to consist.
- 6. Superintendents of canal repairs how appointed and removed.
- 7. Collectors of canal tolls how appointed ; tenure of their offices.
- 8. Comptroller may remove, and may make temporary appointments.
- 9. Canal appraisers how appointed. Not to act when interested.
- 10. Who trustees of state library.
- 11. Secretary of state to be superintendent of common schools and state sealer.
- 12. Mayors of cities how appointed, and when.
- 13. County treasurers how appointed ; tenure of their offices. Certain officers ineligible.
- 14. County sealers how appointed ; tenure of their offices.
- 15. Commissioners of loans and various officers, to be appointed by governor and senate.
- 16. Tenure of their offices.
- 17. Qualifications required of health officers. May be removed.
- 18. Vacancies in office of commissioners of health, may be supplied by board of health.
- 19. Loan-officers how appointed and tenure of their offices.
- 20. Inspectors of hops, &c. to be appointed by governor : tenure of their offices.

§ 1. The lieutenant-governor, the speaker of the assembly, the secretary of state, the attorney-general, the surveyor-general, the comptroller, and the treasurer, are by right of office, and shall continue to be, commissioners of the land-office.<sup>52</sup>

Commissioners of land office.

§ 2. All the officers mentioned in the preceding section, except the speaker of the assembly, by right of office, are, and shall continue to be, commissioners of the canal fund ; but they cannot act as a board unless the comptroller shall be present.<sup>53</sup>

Commissioners of canal fund.

§ 3. The canal commissioners shall be appointed by the legislature, who, in making such appointment, shall proceed in the same manner as in the appointment of secretary of state and other state officers. The tenure of their office is during the pleasure of the legislature.<sup>54</sup>

Canal commissioners.

§ 4. If a vacancy shall occur in the office of canal commissioner, during a recess of the legislature, it shall be supplied by the appointment of the governor ; but the powers of the officer appointed shall cease at the next meeting of the legislature.<sup>55</sup>

(51) Cons. art. 4, § 11 ; Laws of 1822, p. 181, § 4. (52) 1 R. L. 292, § 1 ; Laws of 1815, p. 2, § 4. (53) Laws of 1817, p. 301, § 1. (54) Laws of 1816, p. 298, § 1 ; 1817, p. 292, § 2. (55) Laws of 1817, p. 302, § 2.

in the absence of the canal commissioners, as provided in this act.<sup>54</sup>

§ 8. The canal engineers and canal repairs shall be appointed by the governor, and the acting canal commissioners may remove them at any time, and fill the vacancy occasioned by such removal, until their appointment to continue until the next meeting of the canal board.<sup>55</sup>

§ 9. The inspectors of canal tolls shall be appointed by the canal board for one year, but may be removed at any time by such board.<sup>56</sup>

§ 10. The comptroller shall also have power to remove any of the canal inspectors at his pleasure, and to fill the vacancy occasioned by such removal, until the next meeting of the canal board.<sup>57</sup>

Canal appraisers.

§ 11. The canal appraisers shall be nominated by the governor, or appointed by him, with the consent of the senate. No person shall act as appraiser in any case in which he shall be either directly or indirectly interested.<sup>58</sup>

Trustees of state library.

§ 12. The governor, lieutenant-governor, the secretary of state, the attorney-general, and the comptroller, by right of office, are, and shall continue, trustees of the state library.<sup>59</sup>

Superintendent of common schools and state sealer.

§ 13. The secretary of state, by right of office, is and shall be superintendent of common schools, and state sealer of weights and measures.<sup>60</sup>

Mayors of cities.

§ 14. The mayors of the respective cities in the state are appointed annually by the common councils of the respective cities.<sup>61</sup>

County treasurers.

§ 15. The board of supervisors of each county shall appoint some reputable freeholder of the same county to be the treasurer thereof, who shall hold his office during the pleasure of the board appointing him. No supervisor, or clerk of the board of supervisors, shall be appointed to, or hold, the office of county treasurer.<sup>62</sup>

County sealers.

§ 16. County sealers of weights and measures shall be appointed each by the board of supervisors of the county for which he shall be appointed, and shall hold their offices during the pleasure of the board appointing them.<sup>63</sup>

Commissioners of loans, and various other officers, how appointed.

§ 17. Commissioners for loaning monies under the act entitled "An act authorising a loan of monies to the citizens of this state," passed April 11, 1808; loan-officers of the county of Putnam; inspectors of state prisons; superintendents of the salt springs; inspec-

(54) Laws of 1826, p. 360, § 4. (57) Laws of 1826, p. 360, § 1 & 2; 1827, p. 223, § 13. (58) Laws of 1826, p. 360, § 5 & 6. (59) *Ib.* § 17. (60) Laws of 1825, p. 398, § 1. (61) Laws of 1824, p. 302, § 22. (62) Laws of 1821, p. 249, § 2; 1 R. L. 376, § 2. (63) Const. art. 4, § 10. (64) 1 R. L. 138, § 4. (65) 1 R. L. 376, § 2.

tors of salt in the county of Onondaga ; harbor-masters, wardens and branch pilots of the port of New-York ; auctioneers ; inspectors of flour, of leather, of beef and pork, of distilled spirits, of lumber, flaxseed, and of pot and pearl ashes ; the inspector of leaf tobacco in the city and county of New-York ; the inspector-generals of staves and heading ; cullers of staves and heading ; weigher at the quarantine ground on Staten-Island ; health officer, resident physician and health commissioner of the city of New-York ; the president of the village of Utica ; the agent of the Onondaga tribe of Indians ; superintendents of the Brothertown Indians ; the attorney of the Oneida Indians ; and such bank directors as the state may be authorised to appoint, shall be nominated by the governor, and appointed by him, with the consent of the senate.<sup>66</sup>

§ 16. The officers enumerated in the last section, shall hold their respective offices for two years, except superintendents of salt springs, inspectors of salt in the county of Onondaga, inspector of leaf tobacco in New-York, auctioneers and bank directors, who shall hold their offices for one year.<sup>66</sup> Tenure of their offices.

§ 17. No person but a licensed physician shall be appointed to the office of resident physician, health commissioner, or health officer of the city of New-York. Either of them may be removed by the governor during the recess of the senate.<sup>67</sup> Health officers of New-York.

§ 18. The board of health may supply any vacancy, that may occur in the office of either of the commissioners of health of the city of New-York, whether arising from the temporary inability of the officer to discharge his duties, or otherwise ; but the person so appointed shall hold his office only until such inability be removed, or the sense of the governor, or of the governor and senate be declared.<sup>67</sup> ib.

§ 19. Loan officers under the act entitled " An act for loaning monies belonging to this state," passed the 14th day of March, 1792, shall be appointed and removed, by the votes of at least two-thirds of the board of supervisors of their respective counties, at their pleasure.<sup>68</sup> Loan officers

§ 20. Inspectors of hops, of fish, of oil ; wreck masters ; inspectors of turnpikes ; health officers of the cities of Albany and Hudson ; the peace-makers of the Brothertown Indians ; and the receiver of the profits of the state pier at Sagg-Harbor, shall be appointed by the governor, and severally hold their offices for the term of two years.<sup>69</sup> Inspectors of hops, &c.

(66) Laws of 1822, p. 159 ; 1823, p. 64, § 1 ; p. 81, § 46 ; 1825, p. 80 ; p. 232, § 1 ; p. 443, § 1 ; Laws of 1828, ch. 274 § 1. (67) Laws of 1823, p. 64, § 1. (68) Laws of 1821, p. 69, § 8. (69) Laws of 1823, p. 81, § 46 ; 244, § 2 ; 1825, p. 281.

## TITLE 6.

## TITLE VI.

## GENERAL PROVISIONS APPLICABLE TO ALL THE CIVIL OFFICERS OF THIS STATE, OR TO CERTAIN CLASSES OF THEM.

ART. 1.—General provisions respecting the appointment of officers, their qualifications, the commencement and duration of their offices.

ART. 2.—Of nominations to offices, and the commissions of officers.

ART. 3.—Of the oath of office, and the official bond.

ART. 4.—Of resignations, vacancies and removals, and the means of supplying them.

ART. 5.—Proceedings to compel the delivery of books and papers by public officers to their successors.

## ARTICLE FIRST.

*General Provisions respecting the Appointment of Officers, their Qualifications, the Commencement and Duration of their Offices.*

SEC. 1. No person can hold an office unless twenty-one years of age and a citizen.

2. Members of common councils of cities ineligible to certain offices in gift of such councils.

3. When officers to enter on their duties.

4. Officers whose appointment is not otherwise provided for, to be appointed by governor and senate.

5. Assistants and deputies how to be appointed.

6. Their number how limited.

7. Their powers during a vacancy, &c.

8. Offices when duration is not specially provided for, to be held during pleasure of appointing power.

9. Certain officers to act until their successors are qualified.

10. Sheriffs and clerks of counties to act in like manner.

General disabilities.

§ 1. No person shall be capable of holding a civil office, who, at the time of his election or appointment, shall not have attained the age of twenty-one years, and who shall not then be a citizen of this state.

Members of common council when ineligible.

§ 2. No person elected to the common council of any of the cities in this state, shall, during the term for which he shall have been elected, be appointed to any office of profit in the gift of such common council; but this prohibition shall not extend to any officers, whose appointment is, by the constitution, vested in the common council of any city.

Commencement of office.

§ 3. All officers elected by the people, unless they shall be elected to supply vacancies then existing, shall enter on the duties of their respective offices on the first day of January following the election at which they shall be chosen.<sup>70</sup>

Appointing power.

§ 4. Every officer, the mode of whose appointment is not prescribed by the constitution, or is not, or shall not be prescribed by law, shall be nominated by the governor, and appointed by him, with the consent of the senate.

Deputies, &c. by whom to be appointed.

§ 5. All assistants, deputies, and other subordinate officers of every description, whose appointment is not, or shall not be specially pro-

vided for, shall be appointed by the body, board or officer, to which, ART. 2  
or to whom, they shall be respectively subordinate.

§ 6. When the number of such subordinate officers is not or shall Their number.  
not be directed by law, it shall be limited at the discretion of the appointing power.

§ 7. In all cases not otherwise provided for, each deputy shall possess Their powers.  
the powers, and perform the duties attached by law to the office of his principal, during a vacancy in such office, and during the absence of his principal.

§ 8. Every office of which the duration is not prescribed by the Duration of certain offices.  
constitution, or is not, or shall not be declared by law, shall be held during the pleasure of the authority making the appointment.<sup>71</sup>

§ 9. Every officer duly appointed, except the chancellor, justices Officers to hold over.  
of the supreme court, and circuit judges, who shall have duly entered on the duties of his office, shall continue to discharge the duties thereof, although his term of office shall have expired, until a successor in such office shall be duly qualified.<sup>72</sup>

§ 10. Sheriffs and clerks of counties, including the register and ib.  
clerk of the city and county of New-York, shall in like manner continue to discharge the duties of their offices, until their respective successors shall be duly qualified.<sup>73</sup>

ARTICLE SECOND.

*Of Nominations to Offices, and the Commissions of Officers.*

Sec. 11. Nominations of governor to senate how made.

12. When senate concur in nomination or removal, clerk to deliver certified copies.
13. When an officer is removed by the legislature certified copy of resolution to be delivered.
14. Commissions of civil officers how made out.
15. Commissions and supersedeas how forwarded.
16. When governor shall so direct, messengers to be sent, and notice to be published.
17. Certificates of board of canvassers to be evidence of election.
18. Certificate of his appointment to be delivered to each commissioner of deeds.
19. Other officers how commissioned.

§ 11. All nominations made by the governor to the senate, shall be Nominations to be written, &c.  
in writing.<sup>74</sup> Except in the nomination of a chancellor, chief justice, or justice of the supreme court, he shall designate the district, county, city, or place for which the officers nominated are intended to be appointed, and the place of residence of the candidate nominated.

§ 12. Whenever any person nominated by the governor shall have Resolution of concurrence.  
been appointed by the senate to any civil office, or any officer shall be removed by the senate on the recommendation of the governor, it shall be the duty of the clerk of the senate immediately to deliver a copy of the resolution of concurrence in such nomination or recom-

(71) Cons. art. 4, § 16. (72) Laws of 1824, p. 390. (73) 1 R. L. 420, § 4. (74) Cons. art. 4, § 7.

**TITLE 6.** mendment, certified by the president and the clerk of the senate, to the secretary of state, and another copy certified by the clerk, to the governor.

**Resolution of removal.** § 13. Whenever any officer, whose nomination is vested in the governor, shall be removed by a joint resolution of the two houses of the legislature, it shall be the duty of the clerk of the house in which such resolution originated, immediately to deliver a certified copy thereof to the governor.

**Commissions how made out.** § 14. The commissions of all civil officers appointed by the governor and senate, or by the governor, shall be signed by the governor, and attested by the secretary of state, under the seal of this state, and shall be recorded by the secretary.

**How forwarded.** § 15. When any such appointment shall be made, or any person shall be superseded in office, the secretary of state shall send such commission or supersedeas, by mail or otherwise, to the clerk of the county wherein the person so appointed or superseded shall reside.<sup>76</sup>

**Id.** § 16. Whenever the governor shall so direct, the secretary of state shall despatch a messenger to the person so appointed or superseded, or to the clerk of the county, with the commission or supersedeas; and whenever directed by the governor, he shall also cause notice of such supersedeas to be published for two weeks successively in the state paper; which publication shall be deemed a sufficient notice within the provisions of this Title.<sup>76</sup>

**Certificate of canvassers.** § 17. The certificates of the board of canvassers authorised to canvass the votes given for any elective office, shall be evidence of the election of the persons therein declared to have been elected.

**Commissioners of deeds.** § 18. A duplicate certificate of the appointment of commissioners of deeds in towns, signed by the first judge and the chairman of the board of supervisors, shall be made and delivered to each commissioner appointed, which shall be deemed his commission.

**Commissions of other officers.** § 19. The commissions of all other officers, where no special provision is made by law, shall be signed by the presiding officer of the board or body, or by the person, making the appointment.

#### ARTICLE THIRD.

##### *Of the Oath of Office, and the Official Bond.*

- § 20. Persons elected or appointed to civil offices, to take oath.  
 21. Time within which such oath is to be taken.  
 22. Before whom such oath may be taken.  
 23. Justices of the peace and commissioners of deeds to take oath before county clerk.  
 24. Oaths when certified to be deposited with certain officers.  
 25. Deputies to take oaths.  
 26. Official bonds to be filed within the same time that oath is to be filed.  
 27. Notice to be given of neglect to file official bond or oath.



Sec. 28. Duty of the comptroller when such bond was to have been filed with him.

ART. 3.

28. Bond to be deemed in full force so long as the officer discharges the duties of his office.

30. But the sureties are exonerated after the renewal of such bond.

31. Persons executing offices without taking oath or filing bond, to forfeit such offices and to be deemed guilty of a misdemeanor.

32. Members of legislature may take the oath at any time during their term of office.

§ 20. Every person who shall be elected or appointed to any civil office or public trust embraced in this Chapter, before he shall enter on the duties of such office or trust, shall take the following oath or affirmation: "I do solemnly swear," or "affirm," as the case may be, "that I will support the constitution of the United States, and the constitution of the state of New-York, and that I will faithfully discharge the duties of the office of \_\_\_\_\_ according to the best of my ability."<sup>77</sup>

§ 21. Whenever a different time shall not be prescribed by law, such oath of office shall be taken and subscribed, and deposited in the proper office, within fifteen days after the officer shall be notified of his election or appointment, or within fifteen days after the commencement of his term of office.

§ 22. The oath may be taken and subscribed, except where otherwise provided, before the chancellor, any justice of the supreme court, any circuit judge, the secretary of state, the attorney-general, the lieutenant-governor, the president of the senate for the time being, the speaker of the house of assembly, any judge of any county court, any mayor or recorder of any city, the clerk of any county or city or of any court of record.

§ 23. The oath of justices of the peace and commissioners of deeds shall be taken before the clerk of the county for which they have been elected or appointed.

§ 24. Every such oath, duly certified by the officer before whom the same was taken, shall be deposited within the time required by law, as follows:

1. The oath of the governor, lieutenant-governor, chancellor, justices of the supreme court, comptroller, secretary of state, attorney-general, treasurer, surveyor-general; of the members of the senate and assembly, and of the clerks, sergeants-at-arms and door-keepers thereof; of the canal commissioners, and all other executive and administrative officers, whose authority is not limited to any particular district or county, except where otherwise directed; in the office of the secretary of state.

2. The oath of circuit judges, in the office of the clerk of the county in which they respectively reside.

## TITLE 6.

3. The oaths of counsellors, solicitors, and attorneys, shall be taken before the court of which they are respectively officers, and shall be deposited in the office of the clerk or register of such court.

4. The oath of registers and clerks in chancery, and of clerks of courts of equity and common law, shall be deposited in their respective offices.

5. The oath of supreme court commissioners, notaries public, superintendents of canal repairs, and collectors of canal tolls, in the office of the clerk of the county in which they reside.

6. The oath of all judicial, executive and administrative officers appointed or elected for any county or city, and of all officers whose duties are local, or whose residence in any particular district or county is prescribed by law, in the office of the clerk of the county in which they reside.

Deputy's  
oath.

§ 25. Whenever any officer is authorised or required by law to appoint a deputy, such deputy shall take the same oath of office within fifteen days after his appointment, and shall cause the certificate thereof to be filed in the office where his principal is required to file his oath.

Official bond.

§ 26. Whenever any officer is required by law to execute any official bond, he shall cause the same to be filed in the proper office, within the time herein prescribed for filing his oath of office, unless otherwise provided by law.

Notice of neglect.

§ 27. In case any officer who is required to file the certificate of his oath of office, or his official bond, with the secretary of state or with any county clerk, shall neglect to do so within the time required by law, it shall be the duty of such secretary or clerk immediately to give notice of such neglect to the governor. And when any justice of the peace shall neglect to file the certificate of his oath of office, the county clerk shall also give notice of such neglect, to the supervisor of the town for which such justice was elected.

It.

§ 28. Whenever any official bond is required by law to be filed with the comptroller, and there shall be a neglect to file the same within the time prescribed, the comptroller shall immediately give notice thereof to the governor, in case the officer was commissioned by him, and if not so commissioned, then to the board or body which appointed the officer so neglecting.

Effect of bond.

§ 29. Every bond executed by any officer pursuant to law for the faithful discharge of the duties of his office, shall be deemed to be in force and obligatory upon the principal and sureties therein, so long as such officer shall continue to discharge the duties of his office, and until his successor shall be appointed and duly qualified.

It.

§ 30. But the sureties in any such bond shall be exonerated from all liability by reason thereof, for all acts or omissions, of their prin-

cipal, after he shall have duly renewed any official bond, pursuant to law. ART 4

§ 31. If any person shall execute any of the duties or functions of any office, without having taken and subscribed the oath of office required by law, or without having executed and filed in the proper office any bond required by law, he shall forfeit the office to which he may have been elected or appointed, and shall be deemed guilty of a misdemeanor punishable by fine or imprisonment.<sup>78</sup> Penalty for acting without oath or bond.

§ 32. Members of the legislature may take the oath of office at any time during the term for which they were elected. Legislature.

ARTICLE FOURTH.

*Of Resignations, Vacancies and Removals, and the Means of Supplying them.*

Sec. 33. Resignations to what officers to be made.

34. Offices when to become vacant.

35. Whenever any officer shall be convicted of an infamous crime, &c. and in certain cases court to give notice to the governor.

36. Governor to give notice to the body, board or officer, whose duty it shall be to fill vacancy or order election.

37. When officers die or remove, county clerk to give notice to governor.

38. Governor may remove all officers who are appointed by him.

39. Treasurers and other receivers of public money may be removed by the governor, on the report of the comptroller.

40. If judgment be obtained for a breach of an official bond, governor may declare office vacant.

41. Certain officers appointed by governor and senate, may be removed by the senate, on the recommendation of the governor.

42. Governor may supply certain vacancies by temporary appointments.

43. If a vacancy occur during the recess of the legislature, in the office of treasurer, &c. governor may supply vacancy.

44. Governor may remove sheriffs, clerks, &c. first giving a copy of the charge against them, &c.

45. May direct district attorney to conduct an enquiry into the truth of the charges before a county judge.

46. District attorney may issue process of subpoena.

47. Officer accused to be entitled to the like process.

48. County judge to take and certify the testimony.

49. If a vacancy occur in the office of sheriff, or clerk, except from death, governor to fill vacancy by temporary appointment.

§ 33. Resignations shall be made as follows :

1. By the governor, lieutenant-governor, secretary of state, comptroller, treasurer, attorney-general, surveyor-general and state printer, to the legislature. Resignations to whom to be made.

2. By all officers appointed by the governor alone, or by him with the consent of the senate, to the governor.

3. By senators and members of assembly, to the presiding officers of their respective houses, who shall immediately transmit the same to the secretary of state.

4. By sheriffs, coroners, county clerks, and register of New-York, to the governor.

## TITLE 6.



5. By district attorneys, to the court which appointed them.
6. By justices of the peace, to the supervisor of the town.
7. By commissioners of deeds for towns, to the first judge of the county.
8. By all other officers, to the body, board or officer that appointed them.

When offices  
become va-  
cant.

§ 34. Every office shall become vacant on the happening of either of the following events before the expiration of the term of such office :

1. The death of the incumbent.
2. His resignation.
3. His removal from office.
4. His ceasing to be an inhabitant of the state, or if the office be local, of the district, county, town or city for which he shall have been chosen or appointed, or within which the duties of his office are required to be discharged.
5. His conviction of an infamous crime, or of any offence involving a violation of his oath of office.
6. His refusal or neglect to take the oath of office within the time required by law, or to give or renew any bond, within the time prescribed by law.
7. The decision of a competent tribunal, declaring void his election or appointment.

Notice of  
conviction.

§ 35. Whenever any officer shall be convicted of an infamous crime, or of an offence involving a violation of his oath of office, and whenever any election or appointment of any person shall be declared void, the court before which such conviction shall be had, or by which such decision shall be made, shall immediately give notice thereof, to the governor, stating the cause of such conviction or decision.

Duty of go-  
vernor.

§ 36. The governor shall immediately give notice of the vacancy created by such conviction or decision, to the body, board, or officer, in whom the appointment to the office is vested, or whose duty it may be by law, to order or give notice of, an election to supply the vacancy.

Notice of va-  
cancy.

§ 37. Whenever any officer shall die before the expiration of his term of office, or shall remove from the county, district or place for which he was appointed, the county clerk of the county in which such officer resided, shall immediately give notice of such vacancy to the governor.

Governor's  
power of re-  
moval.

§ 38. All officers who are or shall be appointed by the governor for a certain time, or to supply a vacancy, may be removed by him.

II.

§ 39. The office of treasurer,<sup>79</sup> or of any other collector or receiver of public monies, appointed by the legislature, by the governor and

senate, or by the governor, except those officers for whose removal provision is otherwise made by law, may be declared vacant by the governor, in case it shall appear to him on the report of the comptroller, that such treasurer or other officer, has in any particular, wilfully violated his duty.

ART. 4.

§ 40. The governor may also declare vacant, the office of every officer required by law to execute an official bond, whenever a judgment shall be obtained against such officer for a breach of the condition of such bond.

Breach of official bond.

§ 41. All officers appointed by the governor with the consent of the senate, except the chancellor, the justices of the supreme court, and the circuit judges, may be removed by the senate, on the recommendation of the governor.<sup>80</sup>

Removal of officers appointed by governor and senate.

§ 42. The governor may supply all vacancies that may happen during the recess of the senate, in any office to which an appointment shall have been made by the governor, with the consent of the senate, except in the office of chancellor, justice of the supreme court, circuit judge, judge of county courts, and recorders of cities, by granting commissions, which shall expire at the end of twenty days from the commencement of the next meeting of the senate.

Temporary appointments by governor.

§ 43. Whenever a vacancy shall occur during the recess of the legislature, in the office of treasurer, or of any other officer appointed by the legislature, the governor shall appoint a person to execute the duties of the office, who shall hold his office, until such vacancy shall be regularly supplied.

§ 44. The governor may remove the sheriff, any coroner, or clerk of any county, or the register or clerk of the city and county of New-York, at any time within the term for which he shall have been elected, giving to such officer a copy of the charge against him, and an opportunity of being heard in his defence, before any removal shall be made.<sup>81</sup>

Removal of sheriffs, clerks, &c. on charges.

§ 45. The governor may direct the district attorney of the county in which such officer shall be, to conduct an enquiry into the truth of the charges made; who shall give at least eight days' notice to the officer accused, of the time and place when he will proceed to the examination of witnesses, before some judge of the county courts.

District attorney to enquire into charges.

§ 46. The district attorney may issue process of subpoena in his own name, and with the like effect as in cases of complaints before grand juries, to compel the attendance of any witness whom he shall deem material, before the county judge; and such judge shall have the same power to enforce obedience to such subpoenas by attachment, and to commit any person who shall refuse to be sworn or to answer,

Proceedings thereupon.

(80) Laws of 1823, p. 63, § 7 & 8; p. 243, § 1. (81) Cons. art. 4, § 8 & 11.

**TITLE 6.** as the court of common pleas would have in a civil cause pending therein.

§ 47. On the application of the officer accused to the district attorney, or to any justice of the peace, he shall be entitled to the like process of subpoena, which may be enforced in the same manner, by the judge before whom the enquiry shall be conducted.

§ 48. At the time and place specified in such notice, the county judge before whom the enquiry shall be conducted, shall proceed to take the testimony of the witnesses produced before him by the district attorney, or by the accused officer; the witnesses shall be sworn by such judge; every answer given by them to any question which either party shall require to be reduced to writing, shall be written; their testimony shall be read to and subscribed by them, and shall be certified by the judge taking the same, and delivered to the district attorney, to be by him transmitted to the governor.

Vacancies in office of sheriff and clerk. § 49. In every case where a vacancy shall occur in the office of sheriff or county clerk, including the clerk and register of the city and county of New-York, except where such vacancy shall arise from the death of the incumbent, the governor shall appoint some fit person who was eligible to the office to execute the duties thereof, until it shall be supplied by an election. The person so appointed, after taking the oath of office, and executing a bond, if one be required of the officer in whose place he shall be appointed, shall possess all the rights and powers, and be subject to all the duties and obligations, of the officer so removed.

#### ARTICLE FIFTH.

#### *Proceedings to compel the delivery of Books and Papers by Public Officers to their Successors.*

Sec. 50. Persons removed from, or going out of office, to deliver over books and papers to their successors.

51. On neglect or refusal so to do, such successor may apply to chancellor, &c. for an order to show cause.

52. Proceedings at the time appointed for showing cause. Oath of person charged to be received.

53. If he shall not make oath, and it shall appear that books or papers are withheld, officer shall commit him to jail.

54. Officer may then also issue search warrant.

55. Proceedings on return of search warrant.

56. Upon the death of any officer, the like proceedings may be had against any person into whose hands his books and papers shall come, to compel their delivery.

Books and papers to be delivered to successors. § 50. Whenever any person shall be removed from office, or the term for which he shall have been elected or appointed shall expire, he shall, on demand, deliver over to his successor all the books and papers in his custody as such officer, or in any way appertaining to his office. Every person violating this provision, shall be deemed guilty of a misdemeanor.

Penalty.

At the time so appointed or at any other time to which the <sup>Proceedings.</sup>  
may be adjourned, upon due proof being made of the service of  
order, such officer shall proceed to inquire into the circum-

If the person charged with withholding such books or pa-  
all make affidavit before such officer, that he has truly deliver-  
to his successor, all such books and papers in his custody or  
ning to his office, within his knowledge, all further proceed-  
ore such officer shall cease, and the person complained against  
discharged.

If the person complained against shall not make such oath, <sup>Ib. when per-  
son may be  
committed.</sup>  
all appear that any such books or papers are withheld, the offi-  
re whom such proceedings shall be had, shall by warrant com-  
person so withholding, to the jail of the county, there to re-  
atil he shall deliver such books and papers, or be otherwise  
ged according to law.

1. In the case stated in the last section, if required by the com- <sup>Search war-  
rant when is-  
sued.</sup>  
it, such officer shall also issue his warrant directed to any sheriff  
table, commanding them, in the day time, to search such places  
be designated in such warrant, for such books and papers as  
d to the officer so removed, or whose term of office expired,  
fficial capacity, and which appertained to such office, and seize  
ng them before the officer issuing such warrant.

. Upon any books and papers being brought before such offi- <sup>Proceedings  
thereupon.</sup>  
virtue of such warrant, he shall inquire and examine whether  
re appertain to the office, from which the person so refusing to

**TITLE 1.** ner, make oath of the delivery of all such books and papers that ever came to his possession ; and in case of omission to make such oath, and to deliver up the books and papers, so demanded, such person may be committed to jail, and a search warrant may be issued, and the property seized by virtue thereof, may be delivered to the complainant, as herein before prescribed.

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## CHAP. VI.

### Of Elections, other than for Militia and Town Officers.

- TITLE 1.**—Of the qualifications, disabilities and privileges of electors.  
**TITLE 2.**—Of general and special elections ; the time and purpose of holding them, and the persons by whom held.  
**TITLE 3.**—Of the mode of notifying general and special elections.  
**TITLE 4.**—Of the manner of conducting elections.  
**TITLE 5.**—Of the final canvass, and the mode of declaring and certifying the result.  
**TITLE 6.**—Of the election of representatives in congress, electors of president and vice-president, and senators in congress.  
**TITLE 7.**—Penalties for violating the provisions of this Chapter, and for misconduct at elections.  
**TITLE 8.**—Miscellaneous provisions.

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### TITLE I.

#### OF THE QUALIFICATIONS, DISABILITIES AND PRIVILEGES OF ELECTORS.

- Sec. 1.** Qualifications of voters, except persons of colour.  
**2.** Qualifications of persons of colour.  
**3.** Persons convicted of infamous crimes not to vote unless pardoned.  
**4.** No civil process to be served on an elector during election.

Qualifications.

**SECTION 1.** Every male citizen of the age of twenty-one years, who shall have been an inhabitant of this state one year next preceding any election, and for the last six months a resident of the county where he may offer his vote, is entitled to vote in the town or ward where he actually resides, and not elsewhere, for all officers that now are, or hereafter may be, elected by the people.<sup>1</sup>

§.

**§ 2.** No man of colour can vote at any such election, unless he shall have been for three years a citizen of this state, and for one year next preceding the election at which he shall offer his vote, shall have been seized and possessed of a freehold estate of the value of two hundred and fifty dollars, over and above all debts and incumbrances

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(1) First amendt. to cons.



charged thereon; and shall have been actually rated and paid a tax thereon.<sup>2</sup> TITLE 2.

§ 3. No person who shall have been convicted, within this state, of an infamous crime, at any time previous to an election, shall be permitted to vote thereat; unless he shall have been pardoned by the executive, and by the terms of such pardon restored to all the rights of a citizen.<sup>3</sup> Disabilities.

§ 4. Whenever an election shall be held in any city or town pursuant to this Chapter, no civil process shall be served in such city or town on any elector entitled to vote therein, on either of the days during which such election shall be held.<sup>4</sup> Privileges.

## TITLE II.

### OF GENERAL AND SPECIAL ELECTIONS; THE TIME AND PURPOSE OF HOLDING THEM; AND THE PERSONS BY WHOM HELD.

*Sec. 1. General elections defined.*

2. Register and clerk of New-York to be chosen at general elections.

3. Special elections defined.

4. Elections, when to be held.

5. Duration of elections.

6. In what cases special elections are to be held.

7. When special election is not held, vacancy to be filled at next general election.

8. Vacancies in office of representatives in congress, senator, &c. to be filled at general election.

9. Vacancies not filled at a general election, to be supplied by special election.

10. Special elections, by whom ordered.

11. Contents of the proclamation of governor ordering special election.

12. Elections in New-York, Albany, Troy and Schenectady, to be by wards; in Brooklyn, by districts; and in other places, by towns.

13. Supervisor, &c. inspectors in towns.

14. Common council in New-York, Albany, Troy and Schenectady, and trustees of Brooklyn, to choose inspectors.

15. Persons so chosen, to be inspectors of all special elections held within the year.

16. Two of them may act. Vacancies, how supplied.

§ 1. General elections are such as are held at the same time in every county, for the election of all or some of the following officers, namely: governor, lieutenant-governor, senators, members of assembly, sheriffs, clerks of counties, coroners, justices of the peace, representatives in congress, and electors of president and vice-president. General elections.

§ 2. The register and clerk of the city and county of New-York, shall also be chosen at a general election.

§ 3. Special elections are such as are held only in a particular district or county, at a time when no general election is held, for the choice of one or more of the officers proper to be chosen at a general election. Special elections.

§ 4. General elections shall be held on the first Monday of November in every year;<sup>5</sup> special elections at the times and places of When held.

(2) Cons. art. 2, § 1. (3) Laws of 1822, p. 280, § 25. (4) *Ib.* § 22. (5) Laws of 1822, p. 287, § 1.

**TITLE 2.** which legal notice shall have been given; but no special election shall be held within forty days previously to a general election.

**Duration.** § 5. General elections shall be held, and continued by adjournment, for three days in succession;<sup>6</sup> special elections shall be so held for two days only.

**Special elections.** § 6. Special elections shall be held in the following cases:

**Vacancies.** 1. When an officer other than a governor, lieutenant-governor and elector of president and vice-president proper to be chosen at a general election, shall not have been chosen by reason of two or more candidates having received an equal number of votes for the same office:

2. When the right of office of a person elected to the office of senator, member of the assembly, sheriff, or clerk of any county, or sheriff, clerk, or register of the city and county of New-York, shall cease before the commencement of the term of service for which such officer shall have been elected.

3. When a vacancy occurs in the office of any member of assembly after the last day of December in any year, and before the first day of February following, if such vacancy shall deprive a county of its entire representation.<sup>7</sup>

**ib.** § 7. When a special election shall not have taken place as required by law, the vacancy which ought to have been supplied by such election shall be supplied at the next general election.

**ib.** § 8. All vacancies in the office of representative in congress, senator, justice of the peace, sheriff and clerk of any county, or sheriff, clerk, or register of the city and county of New-York, shall be supplied at the general election next succeeding the happening thereof; but when the term of service of any such officer will expire at the end of the year during which the vacancy in his office shall occur, no person shall be chosen to supply such vacancy, but the usual election shall be held for a new officer to hold during the constitutional term.

**ib.** § 9. If a vacancy proper to be supplied at a general election, shall not have been supplied at the general election next succeeding the happening thereof, a special election to supply such vacancy shall then be held.

**ib. how ordered.** § 10. Special elections in the first case provided for in the sixth section of this Title, shall be ordered by the board of canvassers having the power to determine on the election of the officer omitted to be chosen; in all other cases, such elections shall be ordered by the governor, who shall issue his proclamation therefor.<sup>8</sup>

**Proclamation.** § 11. Such proclamation shall specify the county or district in which such special election is to be held; the cause of such election;

(6) Laws of 1822, p. 267, § 1. (7) Laws of 1822, p. 278, § 18; 1823, p. 418, § 1; 1824, p. 279, § 1 & 2. (8) Laws of 1826, p. 279, § 1 & 2; laws of 1828, p. 418, § 1.

the name of the officer in whose office the vacancy has occurred; the time when his term of office will expire; and the day on which such election is to be held, which shall not be less than thirty nor more than forty days from the date of the proclamation.<sup>9</sup> ART. I.

§ 12. Elections in the cities of New-York, Albany, Troy and Schenectady, shall be by wards; in the village of Brooklyn, by districts; and in all the other parts of the state, by towns.<sup>10</sup> Elections how held.

§ 13. The supervisor, assessors and town clerk of each town, shall be the inspectors of elections in such town.<sup>11</sup> Inspectors.

§ 14. The common councils of the cities of New-York, Albany, Troy and Schenectady, at their usual place of meeting in each of said cities, and the trustees of the village of Brooklyn, at their usual place of meeting in said village, shall, on or before the second Monday of October in every year, by plurality of voices, choose from among the electors actually resident in each ward of the said cities, and in each district of said village of Brooklyn, three persons for inspectors of the general election then next to be holden in such ward or district.<sup>11</sup>

§ 15. The persons so chosen shall also be inspectors of all special elections, which may be held in their respective cities or village, during the ensuing year.<sup>12</sup>

§ 16. Any two of such inspectors may act; and in case of the death or inability of either of them to act, the common council, or trustees, may thereafter appoint another in his place.<sup>12</sup>

### TITLE III.

#### OF THE MODE OF NOTIFYING GENERAL AND SPECIAL ELECTIONS.

ART. 1.—Of the notice to be given by the secretary of state.

ART. 2.—Of the notices to be given by the county and state canvassers.

ART. 3.—Of the notices to be given by the sheriff, clerk or first judge, and by the inspectors.

#### ARTICLE FIRST.

##### *Of the Notice to be given by the Secretary of State.*

Sec. 1. Secretary of state to give notice of election of governor and lieutenant-governor.

2 To give notice of the names of senators whose term will expire.

3 When there is a vacancy to be filled at a general election, to give notice thereof.

4 When special election is ordered by governor, secretary of state to deliver copy of proclamation.

5 Copy of every notice issued by secretary of state, and proclamation of governor, to be published.

§ 1. The secretary of state shall, once in every two years, between the first day of July and the first day of September, immediately pre- Governor's election.

(9) Laws of 1826, p. 279, § 1; laws of 1823, p. 418, § 1. (10) Laws of 1822, p. 267, § 1. (11) *Ib.* § 2. (12) *Ib.* § 18; laws of 1824, p. 418, § 1.

**TITLE 3.** ceding the expiration of the term of office of the governor and lieutenant-governor last chosen, direct and cause to be delivered to the sheriff, clerk, or first judge of each county, a notice in writing, that at the next general election, a governor and a lieutenant-governor are to be elected.<sup>13</sup>

**Senators.** § 2. He shall also, between the first days of July and September in each year, direct and cause to be delivered to the sheriff, clerk, or first judge of each county, a notice in writing, specifying the names of the senators for the district to which such county shall belong, whose terms of service shall expire on the last day of December thereafter.<sup>13</sup>

[Qualified by § 6 of Title 8 of this Chapter.]

**Vacancies.** § 3. If any vacancy shall exist in a county proper to be supplied at the ensuing general election, he shall in like manner, between the first day of July, and the fifteenth of October previous to such election, direct and cause to be delivered to the sheriff, clerk, or first judge of such county, a notice in writing, specifying the cause of such vacancy; the name of the officer in whose office it has occurred; and the time when his term of office will expire; and if any such vacancy shall exist in a district, he shall in like manner direct and cause to be delivered to the sheriff, clerk, or first judge of each county therein, the like notice.<sup>14</sup>

**Special elections.** § 4. When a special election shall have been ordered by the governor in a county, the secretary of state shall forthwith cause a copy of the governor's proclamation to be delivered to the sheriff, clerk, or first judge of such county; and when ordered in a district, to the sheriff, clerk, or first judge of each county therein.

**Publication.** § 5. The secretary of state shall cause a copy of each notice issued by him, and of each proclamation of the governor, to be published in the state paper, once in each week, from the date of such notice or proclamation, until the election to which it shall refer.

#### ARTICLE SECOND.

##### *Of the Notices to be given by the County and State Canvassers.*

**SEC. 6.** When a special election is necessary, by reason of an equality of votes, board of canvassers to give notice thereof.

7. Notice, by whom to be signed.

**When and how given.** § 6. When a special election shall be necessary, in the case of an equality of votes, provided for in the second Title of this Chapter, the board of canvassers having power to determine on the election of the officer omitted to be chosen, shall, without delay, direct and cause to be delivered to the sheriff, clerk or first judge of each county in the district, or of the county in which such election is to be held, a notice specifying the officer to be chosen; the time for which he is to be

(13) Laws of 1822, p. 268, § 3; see also Title 8 of this Chapter, § 6. (14) *Ib.*; laws of 1822, p. 418, § 1.

chosen; and the day on which such election is to be held; which day shall not be less than thirty, nor more than forty days from the date of such notice. ART. 3.

§ 7. The notice of such an election, if ordered by the board of state canvassers, shall be signed by the secretary of state, and if ordered by the county canvassers, by the chairman and clerk of the board. How signed.

#### ARTICLE THIRD.

#### *Of the Notices to be given by the Sheriff, Clerk or First Judge, and by the Inspectors.*

Sec. 8. Sheriff, &c. receiving notice of election, to give notice to inspectors.

9. To cause notice to be published.

10. Inspector receiving notice, to give notice to other inspectors.

11. Inspectors to give eight days' notice to electors.

12. Notice to specify officers to be chosen.

13. Inspectors to cause notices to be posted.

§ 8. The sheriff, clerk or first judge of each county, who shall receive a notice of an election, shall, without delay, give notice in writing of such election, to one of the inspectors of elections in each town or ward in his county. Notice to inspectors.<sup>15</sup>

§ 9. Such sheriff, clerk or first judge shall also cause a copy of the notice to be published in all of the public newspapers printed in his county, if there be any; if not, then in some newspaper printed in an adjoining county, once in each week, from the date of such notice until the election. Publication.

§ 10. The inspector receiving such notice shall, without delay, give notice thereof in writing to the other inspectors of his town or ward, and in such notice shall fix a time and place for the meeting of the board of inspectors. Inspectors.<sup>16</sup>

§ 11. The inspectors of each town or ward, or a majority of them, shall meet at the time and place so appointed, or if such meeting shall not take place, at such other time and place as the inspector calling the meeting shall afterwards fix; and shall, by notices in writing under their hands, give at last eight days' notice to the electors of the town or ward, of the time and place at which such election is to be held therein. Id. notice to electors.<sup>16</sup>

§ 12. Each notice shall also specify the officers to be chosen, and the hour of opening, adjourning and closing the poll of the election on each day thereof. The notice, if of a general election, shall also state whether any of the officers then to be chosen are to supply vacancies, and the names of those in whose offices such vacancies shall have occurred. If the notice be given by the inspectors of a town, it shall also state the number of justices of the peace then to be chosen in Contents.

**TITLE 4.** such town, and the names and unexpired time of service of those, in whose offices any vacancy then to be supplied, shall have occurred.<sup>17</sup>

**How posted.** § 13. The inspectors shall cause such notices to be posted in a conspicuous manner, in at least five of the most public places of their town or ward.<sup>17</sup>

## TITLE IV.

### OF THE MANNER OF CONDUCTING ELECTIONS.

**ART. 1.**—Of the formation of the board of inspectors, and the appointment of clerks.

**ART. 2.**—Of the manner of voting, and of challenges.

**ART. 3.**—Of the duties of the board of inspectors, and clerks of the poll.

**ART. 4.**—Of the canvass and estimate of the votes by the board of inspectors.

#### ARTICLE FIRST.

#### *Of the Formation of the Board of Inspectors and the Appointment of Clerks.*

**SEC. 1.** Inspectors to meet at place, &c. of election, and to organize.

2. Supervisor to be chairman of board.

3. If no supervisor, board to appoint chairman.

4. Chairman to swear inspectors, and one of them to swear him.

5. Inspectors to appoint two clerks.

6. Clerks to take oath.

7. Poll then to be opened, and proclamation made.

8. Kept open from sun rise to sun down.

9. In New-York, to be kept open from nine o'clock till sun down.

10. At opening, inspectors to give notice of the hour of adjournment.

**Board to be formed.** § 1. The inspectors of each town or ward, shall meet at the time and place, when and where, an election shall have been appointed to be held therein, and shall proceed to organize themselves as a board, for the purpose of presiding at and conducting such election.<sup>17</sup>

**Chairman.** § 2. Whenever the supervisor shall be one of the board, he shall, in right of his office, be chairman thereof.

**Ib.** § 3. If the supervisor be not a member of the board, or be absent, such one of their number as the inspectors shall appoint, shall be chairman of the board.

**Oaths.** § 4. The chairman of the board shall administer to the other inspectors the oath of office, as prescribed by the constitution, and the same oath shall then be administered to the chairman, by one of the other inspectors.<sup>17</sup>

**Clerks.** § 5. The inspectors, or a majority of them, having severally taken such oath, the board shall then appoint two clerks, to be called clerks of the polls.<sup>17</sup>

**Ib.** § 6. The clerks shall each take the constitutional oath of office, which shall be administered to them, by the chairman of the board.<sup>17</sup>

§ 7. The poll of the election shall then be opened, and proclamation thereof made; and proclamation shall also be made of each adjournment, and of the opening and closing of the poll, on each day of the election.<sup>18</sup> ART. 2.  
Poll opened.

§ 8. The poll shall be kept open in the day-time only, between the rising and setting of the sun; and shall not be opened before, nor kept open after, the hour of which the inspectors shall have given notice.<sup>18</sup>

§ 9. In the city of New-York, the poll shall be opened at or before nine o'clock in the morning of each day, on which the election shall be held, and shall be kept open on each day of such election, until the setting of the sun.<sup>19</sup>

§ 10. At each opening of the poll in the forenoon, the inspectors shall give notice at what hour on that day, and for how long, the poll will be adjourned, if any adjournment take place; and also at what hour the poll will be closed for that day.<sup>18</sup> Adjournment.

ARTICLE SECOND.

*Of the Manner of Voting, and of Challenges.*

- Sec. 11. Electors to vote by ballot; ballot to be folded.  
 12. Ballot to contain the names of the persons voted for.  
 13. What words to be on outside.  
 14. Ballot, how endorsed.  
 15. Ballots, how prepared at a general election, when there is also a vacancy to be supplied.  
 16. At congressional election, person intended to fill vacancy to be designated.  
 17. If voter be challenged, inspectors to state qualifications.  
 18. Oath of person challenged, if not a coloured man.  
 19. Oath of coloured persons.  
 20. If person challenged refuse to swear, his vote to be rejected.  
 21. Challenge for crimes, how proved. Punishment of convicts for voting when not entitled to vote.

§ 11. The electors shall vote by ballot, and each person offering to vote, shall deliver his ballot, so folded as to conceal the contents, to one of the inspectors, in the presence of the board.<sup>20</sup> Ballot.

§ 12. The ballot shall be a paper ticket, which shall contain, written or printed, or partly written and partly printed, the names of the persons for whom the elector intends to vote, and shall designate the office to which each person, so named, is intended by him to be chosen; but no ballot shall contain a greater number of names of persons as designated to any office, than there are persons to be chosen at the election, to fill such office.<sup>21</sup> Its form.

§ 13. On the outer side of each ballot when folded, shall appear, written or printed, one of the following words: "State," "Congress," "County," or "Justices;" but no ballot found in the proper box shall be rejected for want of such endorsement. Endorsement.

(18) Laws of 1822, p. 268, § 4. (19) *Ib.* § 5. (20) Laws of 1822, p. 267, § 1 & 7. (21) *Ib.* § 7

- TITLE 4.**  
 Contents.  
 State.  
 Congress.  
 County.  
 Justices.  
 lb.  
 lb.  
 Challenges.  
 Oath.  
 lb.
- § 14. The ballot endorsed "State," shall contain the names of the persons designated by the elector for the offices of governor, lieutenant-governor and senator, any or either of them ;  
 That endorsed "Congress," the names of the persons designated for the office of representative in congress, and elector of president and vice-president, any or either of them ;  
 The ballot endorsed "County," the names of the persons designated for the office of member of assembly, and the county officers to be chosen at such election, any or either of them ;  
 And the ballot endorsed "Justices," the names of the persons designated for the office of justice of the peace, in the town in which the election is held.<sup>22</sup>
- § 15. If at a general election, there be one or more vacancies to be supplied in the office of senator, or in the office of justice of the peace, and at the same election a senator or justice is to be elected for four years, it shall not be necessary to designate on the ballot for which term the person voted for is intended, but it shall be afterwards determined by lot, for which term the persons respectively elected, shall serve, without regarding any designation.<sup>23</sup>
- § 16. If at a general election for representatives in congress, any person named in a congress ballot, shall be intended to supply a vacancy in the office of such representative, the ballots shall designate the congress, for which each person is intended to be chosen.
- § 17. If any person offering to vote shall be challenged as unqualified, by an inspector, or by any other person, entitled to vote at the same poll, the board of inspectors shall declare to the person so challenged, the qualifications of an elector.
- § 18. If he shall state himself to be duly qualified, and the challenge shall not be withdrawn, one of the inspectors shall then tender to him, the following oath :  
 "You do swear (or affirm) that you are a citizen of the United States, of the age of twenty-one years ; that you have been an inhabitant of this state for one year next preceding this election, and for the last six months a resident of this county ; that you are now a resident of this town, (or ward as the case may be,) and that you have not voted at this election."<sup>24</sup>
- § 19. If the person so offering to vote be a coloured man, the following oath shall be tendered to him : "You do swear (or affirm) that you are of the age of twenty-one years ; that for three years you have been a citizen of this state ; that you have been an inhabitant of this state for one year next preceding this election, and during that time have been, and that you now are, seized and possessed of a freehold estate of the value of two hundred and fifty dollars, over and

(22) Laws of 1822, p. 267, § 7. (23) Laws of 1824, p. 317. (24) Laws of 1822, p. 271, § 8.



above all debts and incumbrances charged thereon, and have been actually rated and paid a tax thereon; that you have been for the last six months a resident of this county, that you are now a resident of this town, (or ward, as the case may be,) and that you have not voted at this election.<sup>25</sup>

ART. 3.

§ 20. If any person shall refuse to take the oath so tendered, his vote shall be rejected.<sup>25</sup>

§ 21. If a person be challenged as convicted of an infamous crime, he shall not be required to answer any questions in relation to such alleged conviction; nor shall any proof of such conviction be received, other than a duly authenticated record thereof; but if any person so convicted, shall vote at any such election, unless he shall have been pardoned and restored to all the rights of a citizen, he shall be deemed guilty of a misdemeanor, and on conviction shall be imprisoned in the county jail for the term of six months.

Challenge as a convict.

ARTICLE THIRD.

*Of the Duties of the Board of Inspectors, and Clerks of the Poll.*

Sec. 22. Ballot boxes to be kept at general elections.

1. Boxes to be kept at special elections.
2. Each box to have lock and key; when to be opened and shut, and who to keep keys.
3. Opening in lid to be made for the ballots.
4. Ballot, when received, to be deposited in box, without being opened.
5. Clerks of the poll, to keep poll lists. Contents of the lists.
6. Names of voters, how to be entered on poll lists.
7. At each adjournment of poll, lists to be compared, and placed in boxes.
8. Boxes then to be locked and sealed.
9. Keys and boxes to be delivered to separate inspectors.
10. Inspector having keys, to deliver them to board at opening of poll.
11. Inspector having boxes, to deliver same to board at opening of poll.
12. Seals then to be broken, and boxes opened.
13. Inspectors to challenge persons whom they suspect not qualified.
14. Board to have power to preserve order.
15. May commit disorderly persons to jail.
16. By whom order for commitment to be executed.

§ 22. At each general election, the board of inspectors shall provide and keep two boxes, one to be entitled the "State Box," another the "County Box," and for the election of justices in each town a third box shall be kept, to be entitled the "Justices Box." If representatives in congress or electors of president and vice-president, are to be chosen, an additional box shall be kept, to be entitled the "Congress Box."<sup>26</sup>

Ballot boxes.

§ 23. At a special election, so many only, of such boxes shall be kept, as shall be requisite for depositing therein the ballots of the persons voting for the officers directed to be chosen, at such election.

§ 24. Each box shall be provided with a sufficient lock, and shall be locked before the opening of the poll, and the keys thereof delivered to one of the inspectors to be appointed by the board; and shall not

(25) Laws of 1822, p. 271, § 8. (26) Laws of 1822, p. 269, § 6 & 7.

**TITLE 4**  
 be opened during the election, except in the manner and for the purposes herein after mentioned.<sup>27</sup>

**a**        § 25. An opening shall be made in the lid of each box, not larger than shall be sufficient for a single closed ballot to be inserted therein at one time, through which each ballot received, proper to be placed in such box, shall be inserted.<sup>27</sup>

**Ballot to be counted.**  
 § 26. When the board shall have finally received the ballot of an elector, one of the inspectors, without opening the same, or permitting it to be opened or examined, shall deposit it in the box corresponding in title with the endorsement of the ballot.<sup>27</sup>

**Pol. list.**  
 § 27. Each clerk of the poll shall keep a poll list, which shall contain one column headed "Names of Voters," and so many additional columns, as there are boxes kept at the election. The heading of each additional column, shall correspond with the name of one of the boxes so kept.

**b**        § 28. The name of each elector voting, shall be entered by each clerk, in the column of his poll list, headed "names of voters," and opposite such name, shall be written the figure 1 in each remaining column of such poll list, corresponding in its heading, with the name of a box in which a ballot of the elector shall have been deposited.

**Comparison of poll lists.**  
 § 29. At each adjournment of the poll, the clerks shall, in the presence of the inspectors, compare their respective poll lists, compute and set down the number of the votes in each column, and correct all mistakes that may be discovered, according to the decision of the board, until such poll lists and their several columns, shall be made in all respects to correspond. The boxes shall then be opened, and the poll lists be placed therein.<sup>27</sup>

**Boxes to be locked, &c.**  
 § 30. Each box shall then again be locked, and the seal of one or more of the inspectors, so placed thereon as to cover entirely, the opening in the lid.<sup>27</sup>

**14**        § 31. The keys shall then be delivered to one of the inspectors, and the boxes to another, to be designated by the board.<sup>27</sup>

**15**        § 32. The inspector having the keys shall keep the same in his own possession, and deliver them again to the board at the next opening of the poll.<sup>27</sup>

**16**        § 33. The inspector having the boxes, shall carefully keep them without opening, or suffering them to be opened, or the seals thereof to be broken or removed; and shall publicly deliver them, in that state, to the board of inspectors at the next opening of the poll.<sup>27</sup>

**17**        § 34. At that time the seals shall be broken, the boxes opened, the poll lists taken out, and the boxes again locked; and the same course

shall be observed, until the poll of the election shall be finally closed. ART. 4.

§ 35. It shall be the duty of each inspector to challenge every person offering to vote, whom he shall know or suspect, not to be duly qualified, as an elector.<sup>29</sup> Inspectors to challenge.

§ 36. The board of inspectors shall possess full authority to maintain regularity and order, and to enforce obedience to their lawful commands, during an election, and during the canvass and estimate of the votes, after the closing of the poll. To preserve order.

§ 37. If any person shall refuse to obey the lawful commands of the inspectors, or by disorderly conduct in their presence or hearing, shall interrupt or disturb their proceedings, they may, by an order in writing, commit the person so offending to the common jail of the county, for a period not exceeding thirty days.<sup>30</sup>

§ 38. Such order shall be executed by any sheriff or constable, to whom the same shall be delivered; or if none shall be present, by any other person deputed by such board, in writing.

ARTICLE FOURTH.

*Of the Canvass and Estimate of the Votes by the Board of Inspectors.*

- 39. Board to determine whether they will then canvass or adjourn.
- 40. If canvass adjourned, what to be done with boxes, &c.
- 41. Canvass to be public. When to be completed.
- 42. Canvass to commence by a comparison of poll lists.
- 43. Ballots to be counted. If two folded together to be destroyed.
- 44. Ballots found in a box different from endorsement, not to be rejected.
- 45. If the ballots exceed the number mentioned in the poll list, excess to be destroyed.
- 46. If poll lists and ballots agree, votes to be estimated.
- 47. Statement of result to be drawn up by inspectors.
- 48. Contents of statement.
- 49. Statement to be delivered to one of the inspectors.
- 50. Duplicate to be delivered to town clerk.
- 51. Poll lists and ballots to be destroyed, and board dissolved.
- 52. Inspectors to preserve rejected ballots.

§ 39. As soon as the poll of an election shall have finally closed, the board shall determine whether they will then proceed to canvass the votes or adjourn the canvass to some convenient hour of the next day. Canvass when made.

§ 40. If the canvass shall be so adjourned, the same course shall be observed in relation to the poll lists, boxes and keys, as is required to be observed at each adjournment of the poll.

§ 41. The canvass shall be public, and shall be completed on the day subsequent to the closing of the poll, or sooner; except in the Canvass how made.

(28) Laws of 1822, p. 269, § 6 & 7. (29) *Ib.* § 8. (30) *Ib.* § 12.

**TITLE 4.** city of New-York, where two days shall be allowed for completing the same.

Proceedings  
thereat.

§ 42. The canvass shall commence, by a comparison of the poll lists, from the commencement, and a correction of any mistakes that may be found therein, until they shall be found or made, to agree.

1b. § 43. Each box being opened, the ballots contained therein shall be taken out and counted unopened, except so far as to ascertain that each ballot is single. And if two or more ballots shall be found so folded together as to present the appearance of a single ballot, they shall be destroyed.

1b. § 44. No ballot properly endorsed, found in a box different from that designated by its endorsement, shall be rejected, but shall be counted in the same manner as if found in the box designated by such endorsement.

1b. § 45. If the ballots shall be found to exceed in number the whole number of votes on the correspondent columns of the poll lists, they shall be replaced in the box, and one of the inspectors shall publicly draw out and destroy so many ballots unopened, as shall be equal to such excess.

1b. § 46. The ballots and numbers on the poll lists agreeing, or being made to agree, the board shall then proceed to canvass and estimate the votes.

Statement of  
result. § 47. The canvass being completed, a statement of the result shall be drawn up in writing by the inspectors, which they shall certify to be correct, and subscribe with their proper names.

1b. § 48. Such statement shall contain in words, written at full length, the whole number of votes given for each office at such election; the names of the persons for whom such votes for such office, were given; and the number of votes so given to each person.

1b. § 49. The board of inspectors shall deliver the statement so certified and subscribed, to such one of the inspectors as shall be appointed by the board to attend the county canvass.

1b. § 50. A duplicate of such statement, shall also be signed by the inspectors at the same time, and shall be immediately delivered to the town clerk, to be filed and preserved by him.

Poll lists to  
be destroyed.

§ 51. The poll lists and ballots, excepting such ballots as shall have been rejected by the inspectors as imperfect, shall then be destroyed, and the board of inspectors shall be dissolved.

What ballots  
to be preserv-  
ed.

§ 52. It shall be the duty of the inspectors of elections, to preserve a true copy of all ballots rejected as defective, with the originals

attached, and deliver the same to the town clerk, to be filed in his office.<sup>21</sup> ART. 1.

**TITLE V.**

**OF THE FINAL CANVASS, AND THE MODE OF DECLARING AND CERTIFYING THE RESULT.**

- ART. 1.—Of the board of county canvassers, and their proceedings.
- ART. 2.—Of the duties and proceedings of the county clerk.
- ART. 3.—Of the duties of the secretary of state, previous to the meeting of the state canvassers.
- ART. 4.—Of the formation and proceedings of the board of state canvassers.
- ART. 5.—Of the subsequent duties of the secretary of state.

**ARTICLE FIRST.**

*Of the Board of County Canvassers, and their Proceedings.*

- SEC. 1. *Who to form board of county canvassers.*
- 2. *Board, when and where to meet.* Chairman.
- 3. *Clerk of county, secretary of board.*
- 4. *Chairman to swear members, and secretary to swear him.*
- 5. *Majority of inspectors constitute a board.*
- 6. *Board to estimate votes from original statements of canvass.*
- 7. *To make a separate statement of votes for governor, &c.*
- 8. *Contents of statements.*
- 9. *Statements to be attested and recorded.*
- 10. *Upon statements of votes for assembly, county officers and justices of the peace, board to determine who are elected.*
- 11. *If county be a congress district, board also to determine who are chosen electors of president.*
- 12. *A certificate of each determination to be annexed to the statement upon which it is made.*
- 13. *Copy to be published.*
- 14. *If votes are received for elector, and county is not a congress district, copy of statement to be transmitted to district canvassers.*
- 15. *Inspector, if unable to attend, to deliver statement of votes of his town to county clerk.*
- 16. *If a majority do not attend, those present to adjourn to next day.*
- 17. *If a majority do not then attend, those present to estimate votes.*

§ 1. The inspectors in each county, to whom the original statements of the canvass of votes in the towns or wards, to which they respectively belong shall have been delivered, shall form the county board of canvassers. Board how composed.

§ 2. They shall meet at the office of the clerk of the county, on the Tuesday next following the election, before one o'clock in the afternoon of that day, and shall choose one of their number as chairman. When to meet.

§ 3. The clerk of the county, or in his absence, his deputy, shall be secretary of the board. Secretary.

§ 4. The chairman shall then administer the constitutional oath to each member of the board, and the same oath shall be administered to him by the secretary. Oath.

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(81) This article is chiefly a revival of § 9 of the act of 1822.

**TITLE 5.**  
**Quorum.**

§ 5. The major part of the inspectors appointed in the respective towns or wards to attend the canvass, shall be a sufficient number to constitute a board.

**Statement of votes.**

§ 6. The original statements of the canvass in each town or ward shall then be produced, and from them, the board shall proceed to estimate the votes of the county, and shall make such statements thereof, as the nature of the election shall require.

1b.

§ 7. They shall make a separate statement containing the whole number of votes given in such county for the office of governor, lieutenant-governor, senator, and representatives in congress, any or either of them; the names of the persons to whom such votes were given, and the number of votes given to each: another similar statement of the votes for electors of president and vice-president; another, of the votes for members of assembly and county officers, any or either of them; and for each town of the county in which justices of the peace shall have been voted for, a separate and similar statement of such votes in the town, designating it by its name, shall be made.

1b.

§ 8. In such statements, the whole number of votes given, the names of the candidates, and the number of votes given to each, shall be written out in words at full length.

**How certified.**

§ 9. Each statement shall be certified as correct, and attested by the signatures of the chairman and secretary of the board; and a copy of each, thus certified and attested, shall be delivered to the county clerk, to be recorded in his office.

**Duty of board.**

§ 10. Upon the statements of votes given for members of assembly and county officers, and justices of the peace, the board shall proceed to determine what person or persons have, by the greatest number of votes, been duly elected to each of the offices mentioned in each statement.

1b.

§ 11. If the county in which such election shall have been held, be of itself a congress district, the board shall also determine, upon the statement of votes given for electors of president and vice-president, what person or persons, by the greatest number of votes, have been duly elected.

**Certificates.**

§ 12. A certificate of each determination made by the board, shall be annexed to the statement upon which it shall be made, attested by the signatures of the chairman and secretary of the board, and delivered to the county clerk, to be recorded in his office.

**Publication.**

§ 13. The board shall cause a copy of every such determination, and of the statement upon which it shall be made, to be published in one or more of the newspapers printed in the county.

§ 14. If votes shall have been received at such election for the office of elector of president and vice-president, and the county shall not be of itself a congress district, the board shall deliver to the county clerk a second copy of the statement of such votes, to be presented by him to the board of district canvassers.

ART. 2.  
President and electors.

§ 15. If any one of the inspectors appointed to attend the county canvass, shall be unable to attend the meeting of the board, on the day appointed for such meeting, he shall on or before that day, cause to be delivered at the office of the county clerk, the original statement of the votes of his town or ward.

If inspector can not attend, his duty.

§ 16. If on that day a majority of the county canvassers shall not attend, or the statements of the votes from every town and ward in the county, shall not be produced, the canvassers then present shall adjourn to some convenient hour of the next day.

Duty of those who attend.

§ 17. At that hour they shall again meet, and the canvassers then attending, although less than a majority of the whole, shall organize themselves as a board, and upon the statements, or certified copies thereof, then produced, shall proceed to estimate, state and certify the votes of the county, in the manner before directed.<sup>32</sup>

ARTICLE SECOND.

*Of the Duties and Proceedings of the County Clerk.*

- Sec. 18. Clerk to deliver to county canvassers, statements of votes taken in each town.
- 19. If there be a deficiency in return of votes, clerk to despatch messengers.
- 20. Clerk to record all statements delivered by county canvassers.
- 21. Clerk to prepare three copies of statement of votes for governor, senators, &c.
- 22. To send one to governor, one to comptroller, and one to secretary of state.
- 23. Certified copies of certificate of canvassers, to be prepared and delivered.
- 24. To send to secretary of state, a list of county officers elected.

§ 18. The county clerk shall deliver to the board of county canvassers, all the certified statements of the votes taken in each town, at the next preceding election, that shall have been received at his office.

To deliver statements, &c.

§ 19. If on the day appointed for the meeting of the board of county canvassers, the board shall not have been organized, owing to a deficient return of the votes of the county; the county clerk shall, by a special messenger, or otherwise, obtain the necessary statements or certified copies thereof, in time to be produced to the board at their next meeting.

To procure them.


§ 20. The county clerk shall record in his office, all the statements and certificates, that shall have been delivered to him by the county board of canvassers, and shall keep a proper book for that purpose.

To record them.

§ 21. Of the statement and certificate of the votes for the office of governor, lieutenant-governor, senators and representatives in con-

To prepare copies.

(32) As to this Article see laws of 1822, p. 278, § 10, and laws of 1835, p. 53, § 3.

**TITLE 4**  gress, or either of them, and if the county be a congress district, of electors of president and vice-president, he shall prepare three certified copies under his signature, and sealed with the seal of his office.

**D.** § 22. Of these copies, he shall send by mail one to the governor, one to the comptroller, and one to the secretary of state, before the third Monday of November in each year after a general election, and within ten days after a special election.

**Ib.** § 23. He shall prepare as many certified copies of each certificate of the determination of the board of county canvassers, as there are persons declared to be elected in such certificate, and shall without delay, deliver one of such copies to each person so elected.

**Lists to secretary.** § 24. He shall transmit to the secretary of state, within thirty days after a general election, a list of the names of the persons elected in the county as members of assembly, and also a list of the names of the persons declared at such canvass to be elected sheriff, clerk, coroners, and justices of the peace in such county.<sup>33</sup>

#### ARTICLE THIRD.

#### *Of the Duties of the Secretary of State, previous to the Meeting of the State Canvassers.*

**Sec. 25.** Secretary to record statements of elections.

26. If statements be not received, secretary to despatch special messengers.

27. Clerk to deliver same to messenger.

28. Messenger to deliver same to secretary of state.

29. Secretary to appoint meeting of state canvassers.

30. If a majority of canvassers are unable to attend, secretary to notify mayor and recorder of Albany.

**To record statements.** § 25. It shall be the duty of the secretary of state to record in his office, in a book to be kept by him for that purpose, each certified statement of the result of an election, received by him from a county clerk; and to obtain from the governor and comptroller, every such certified statement received by either of them, and to record one of those so obtained, for each county, from which no similar statement shall have been received by himself.<sup>34</sup>

**Special messengers.** § 26. If from any county from which such statement shall be due, none shall have been received or obtained by him, on or before the last day of November next after a general election, and within twenty days after a special election, he shall despatch a special messenger to obtain such statement from the clerk of such county.<sup>34</sup>

**Ib.** § 27. Such clerk shall immediately, on the demand of such messenger, made at his office, make out and deliver to such messenger the statements required.<sup>34</sup>

(33) As to this Article, see laws of 1822, p. 274, § 10 & 11. (34) Laws of 1822, p. 274, § 11.



§ 28. The messenger shall deliver to the secretary of state, as soon as may be, all such statements as he shall receive, to be filed and recorded as aforesaid.<sup>35</sup> ART. 4  
To notify  
state canvassers.  
ib.

§ 29. The secretary of state shall appoint a meeting of the state canvassers to be held at his office, or that of the treasurer or comptroller, on or before the fifteenth day of December after each general election, and within forty days after a special election.<sup>36</sup> To notify  
state canvassers.

§ 30. If a majority of those officers shall be unable or shall fail to attend on the day appointed, he shall give notice to the mayor and recorder of the city of Albany, that their attendance is required.<sup>37</sup>

ARTICLE FOURTH.

*Of the Formation and Proceedings of the Board of State Canvassers.*

- Sec. 31. Who to be state canvassers.
- 32. If a majority be absent, mayor and recorder of Albany to attend.
- 33. Duties of the board.
- 34. To determine who have been elected.
- 35. Certificate of determination.
- 36. Members dissenting to state their reasons therefor.
- 37. If acts of board are illegal, any member to protest.
- 38. Dissents or protests, to be delivered to secretary.
- 39. Board may adjourn.

§ 31. The secretary of state, comptroller, surveyor-general, attorney-general and treasurer, shall be the state canvassers; three of whom shall be a sufficient number to form a board. Board how  
composed.

§ 32. If a majority of those officers shall be unable or shall fail to attend, the mayor and recorder of the city of Albany being notified by the secretary of state, shall attend without delay, and with the officers attending, shall form the board.

§ 33. The board when thus formed shall, upon the certified statements of elections recorded in the office of the secretary, or received by him, proceed to make a statement of the whole number of votes given at such election for the office of governor and lieutenant-governor, or either of them; another statement of the votes given for the office of senator; and another, of the votes for representatives in congress: each of which statements shall show the names of the persons to whom such votes shall have been given for either of the said offices, and the whole number of votes given to each; distinguishing the several districts and counties in which they were given. They shall certify such statements to be correct, and subscribe the same with their proper names. Their duty.

§ 34. Upon such statements they shall then proceed to determine and declare what persons have been, by the greatest number of votes, duly elected to such offices, or either of them.

**TITLE 5.** § 35. They shall make and subscribe on the proper statement, a certificate of such determination, and shall deliver the same to the secretary of state.

**Dissent.** § 36. If any one of the canvassers shall dissent from a decision of the board, he shall state at large, in writing, the reasons of such dissent.

**Protest.** § 37. If any of the acts or proceedings of the board shall appear to any one of the canvassers to be illegal or irregular, such canvasser shall protest against the same in writing, setting forth distinctly the grounds of his protest.

**D.** § 38. The canvasser so dissenting or protesting, shall deliver his dissent or protest, signed with his proper name, to the secretary of state.

**Adjournments.** § 39. The board shall have power to adjourn from day to day, for a term not exceeding five days.<sup>39</sup>

#### ARTICLE FIFTH.

##### *Of the subsequent Duties of the Secretary of State.*

**Sec. 40.** To record certified statements, &c. of state canvassers.

41. To deliver copies of determination.

42. To cause copy to be printed.

43. To transmit a general certificate to the house of representatives.

44. Persons elected to supply vacancies, to be mentioned in certificates.

45. To enter in a book, names of justices, sheriffs, coroners and clerks.

**To record proceedings of canvassers.** § 40. He shall record in his office, in a book to be kept by him for that purpose, each certified statement and determination, which shall be delivered to him by the board of state canvassers, and every dissent or protest that shall have been delivered to him by a canvasser.

**To deliver certificates.** § 41. He shall, without delay, deliver a copy, under the seal of his office, of such certified determination to each person thereby declared to be elected, and a like copy to the governor.

**Publication.** § 42. He shall cause a copy of such certified statements and determinations to be printed in the state paper, and in one or more of the public newspapers, in each senate district for which a senator shall have been chosen.

**Certificate of persons chosen to congress.** § 43. He shall prepare a general certificate under the seal of this state, and attested by him as secretary thereof, addressed to the house of representatives of the United States, in that congress for which any persons shall have been chosen, of the due election of the persons so chosen at each election, as representatives of this state in congress; and shall transmit the same to the said house of representatives, at their first meeting.

(39) As to this Article, see laws of 1822, p. 276, § 13 & 14.

§ 44. If either of the persons so chosen at such election, shall have been elected to supply a vacancy in the office of representative in congress, it shall be mentioned by the secretary in the statements and certificates to be prepared by him. ART. 1.  
ib.

§ 45. The secretary of state shall enter in a book to be kept in his office, the names of all justices of the peace elected in this state, arranging them in alphabetical order in their respective counties. He shall also enter in a book to be kept in his office, the names of all the sheriffs, coroners and clerks, elected in this state, with the respective counties for which they are elected.<sup>39</sup> Names of  
justices, &c.

## TITLE VI.

### OF THE ELECTION OF REPRESENTATIVES IN CONGRESS, ELECTORS OF PRESIDENT AND VICE-PRESIDENT, AND SENATORS IN CONGRESS.

ART. 1.—Of the election of representatives in congress.

ART. 2.—Of the election of electors of president and vice-president.

ART. 3.—Of the formation and proceedings of the college of electors.

ART. 4.—Of the election of senators in congress.

#### ARTICLE FIRST.

##### *Of the Election of Representatives in Congress.*

Sec. 1. Representatives to be chosen by districts in every second year.

2. Representative resigning to notify secretary of state; if he die, clerk of county to give notice.

§ 1. Representatives in the house of representatives of the congress of the United States, shall be chosen in the several congress districts, at the general elections held therein, in every second year, after the year one thousand eight hundred and twenty-six.<sup>40</sup> When cho-  
sen.

§ 2. If a representative in congress shall resign, he shall forthwith transmit a notice of his resignation to the secretary of state; and if a vacancy shall occur by death in the office of representative in congress, the clerk of the county in which such representative shall have resided at the time of his election, shall without delay, transmit a notice of such vacancy to the secretary of state.<sup>40</sup> Resignation.  
Death.

#### ARTICLE SECOND.

##### *Of the Election of Electors of President and Vice-President.*

Sec. 1. At election preceding choice of president, electors shall be chosen.

4. How election conducted and result ascertained when district consists of one county only.

5. Where district includes more than one county, clerks of the counties to be canvassers.

6. When and where to meet.

7. Their duty.

(39) This Article was chiefly compiled from § 11, 12 & 13, of the act of 1822. (40) Laws of 1822, p. 278, § 17.

## TITLE 6

SEC. 8. To transmit statement of votes to secretary of state, and to file copy in clerk's office.

9. Copy of statement to be printed.

10. Copies to be delivered to persons elected.

When chosen.

§ 3. At the general election next preceding the choice of a president and vice-president of the United States, there shall be elected in each congressional district in this state, as many electors of president and vice-president, as such district may be authorised to elect members to the house of representatives in the congress of the United States.

How.

§ 4. The election of such electors shall be conducted, and where the congress district shall consist of only one county, the result thereof shall be ascertained, determined, and certified in the manner herein before provided.

District canvassers.

§ 5. Where the congress district shall include more than one county, the clerks of the several counties composing it, shall form the board of district canvassers.

Their meeting.

§ 6. They shall meet on the Tuesday next after the day on which the county canvasses shall have been made, at the clerk's office of the county in said district, having the greatest number of inhabitants, according to the last preceding census; except that the clerk's office in the county of Allegany shall be the place of the meeting for the twenty-eighth congress district.

Their proceedings.

§ 7. They shall mutually administer to each other the constitutional oath; and upon the statements of the votes of each county for the office of elector of president and vice-president, being produced, they shall proceed in like manner as the county board of canvassers, to estimate, state and certify the votes of the district; and to determine and certify what person or persons have been elected to such office for that district.

It.

§ 8. They shall make a statement of the votes given, and shall transmit a certified copy thereof, and of their determination thereon, by mail, to the secretary of state, and file another copy in the clerk's office of the county, in which their meeting shall be held.

It.

§ 9. A certified copy of each statement, and of the determination of the district canvassers thereon, shall be printed in one or more of the newspapers printed in each county of the district.

It.

§ 10. The district canvassers shall prepare as many certified copies of each certificate of determination, as there shall be persons stated therein to have been elected, and shall, without delay, cause one of said certified copies to be delivered to each person so elected.<sup>41</sup>

(41) This Article was compiled from the act of 1825 (Laws of 1825, p. 58, § 1.)

ARTICLE THIRD.

ART. 3.

*Of the Formation and Proceedings of the College of Electors.*

Sec. 11, 12, & 13. Electors when and where to convene ; College how to be filled and organized.

14. Duty of secretary of state.

15 & 16. Electors when and how to vote ; lists to be prepared, &c.

17 & 18. Electors to appoint a messenger ; his duty.

19. Electors also to forward lists by mail, &c.

20. Compensation of electors.

§ 11. The electors of president and vice-president shall convene <sup>Meeting and duty.</sup> at the Capitol, on the day preceding the first Wednesday in December after their election, and those of them who shall be so assembled at four o'clock in the afternoon of that day, shall immediately after that hour, proceed to fill by ballot and by plurality of votes, all vacancies in the electoral college, occasioned by the death, refusal to serve, or neglect to attend at that hour, of any elector, or occasioned by the omission of any district to make a choice.<sup>42</sup>

§ 12. The electors so attending, and those appointed to fill vacancies, shall then proceed in like manner to choose two electors, corresponding with the number of senators in congress from this state, which two last mentioned electors shall form a part of the electoral college.<sup>43</sup>

§ 13. The electoral college being thus completed, they shall then choose a president and secretary from their own body.

§ 14. The secretary of state shall prepare three lists of the names <sup>List of electors.</sup> of the electors ; procure to the same the signature of the governor ; affix thereto the seal of the state ; and deliver them thus signed and sealed to the president of the college of electors, on or before the said first Wednesday in December.<sup>44</sup>

§ 15. On the said first Wednesday in December, the electors shall <sup>When and how to vote.</sup> meet at the Capitol, and then and there vote by ballot for president and vice-president, one of whom at least may not be an inhabitant of the same state with themselves. They must name in their ballots the person voted for as president, and in distinct ballots, the person voted for as vice-president.<sup>45</sup>

§ 16. They must make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which lists they must sign and certify, and after annexing thereto one of the lists received from the secretary of state, they must seal up the same, certifying thereon that lists of the votes of this state for president and vice-president, are contained therein.<sup>46</sup>

§ 17. The electors must then, by writing under their hands, or under the hands of a majority of them, appoint a person to take charge of the lists, so sealed up, and to deliver the same to the president of

(42) Laws of 1826, p. 88, § 4. (43) 12th amend. to cons. U. S.; act of Congress of the 1st of March, 1792.

**TITLE 6.** the senate, at the seat of government of the United States, before the first Wednesday in January then next ensuing.<sup>44</sup>

**His duty.** § 18. In case there shall be no president of the senate at the seat of government on the arrival of the person entrusted with the lists of the votes of the electors, then such person is required to deliver the lists of votes in his custody into the office of the secretary of state of the United States.<sup>44</sup>

**Other laws.** § 19. The electors are also required to forward forthwith, by the post-office, to the president of the senate of the United States, at the seat of government, and to deliver forthwith to the judge of the United States for the northern district of the state of New-York, similar lists, signed, annexed, sealed up, and certified in the manner aforesaid.<sup>44</sup>

**Compensation of electors.** § 20. Every elector of this state for the election of a president and vice-president of the United States, who shall attend at any election of those officers, and give his vote at the time and place appointed by law, shall be entitled to receive for his attendance at such election, and for travelling to and from his place of residence by the most usual route, the same sum as shall at the time be allowed by law to the members of the legislature for their attendance and travel, to be paid in the like manner.<sup>45</sup>

#### ARTICLE FOURTH.

##### *Of the Election of Senators in Congress.*

**Sec. 21.** Senators to be chosen by legislature, and when.

22. Vacancies to be filled within ten days after notice thereof.

23 & 24. Mode of proceeding in the choice of senators.

**When chosen.** § 21. On the first Tuesday of February next before the expiration of the time for which any senator was elected to represent this state in congress, if the legislature shall be then in session, and if not, then within ten days after a quorum of both houses shall be assembled at the then next meeting of the legislature, an election shall be held for a senator in congress, at the place where the legislature shall be then sitting, in the room of such senator so going out of office.

**Vacancy.** § 22. Whenever the seat of any such senator shall become vacant before the expiration of the time for which he was elected, another senator shall be elected in his room, within ten days after the legislature shall have notice of such vacancy, at the place where it shall be then sitting.

**How chosen.** § 23. Such election shall be made by the legislature in the following manner: the senate and assembly shall each openly nominate one person for the office of senator in congress; after which they shall immediately meet, and if they shall agree in their nominations, the person so nominated shall be appointed to the office for which he shall

(44) 12th amendt. to cons. U. S.; act of congress of the 1st of March, 1792. (45) 2 E. L. 247, § 4; act concerning the Revised Statutes, passed Dec. 10, 1823, § 19.

be nominated; if they shall disagree, the election shall be made by the joint ballot of the senators and members of assembly. TITLE 7.

§ 24. Whenever any senator shall be chosen as aforesaid, copies of the resolutions of the senate and assembly, testifying such choice signed by the president of the senate and speaker of the assembly, shall be thereupon delivered to the person so chosen a senator, as evidence of such election.<sup>46</sup> Evidence of election.

## TITLE VII.

### PENALTIES FOR VIOLATING THE PROVISIONS OF THIS CHAPTER, AND FOR MISCONDUCT AT ELECTIONS.

Sec. 1. Elector swearing false deemed guilty of perjury.

2. Persons procuring others to swear false, deemed guilty of subornation of perjury.

3. Officers guilty of wilful neglect or corrupt conduct, forfeit five hundred dollars.

4. Penalty for bribery, &c.

5. Penalty for calling out militia within certain days.

§ 1. If any elector challenged as unqualified, shall be guilty of wilful and corrupt false swearing or affirming, in taking any oath or affirmation prescribed by this Chapter, such person shall be adjudged guilty of wilful and corrupt perjury.<sup>47</sup> False swearing.

§ 2. Every person who shall wilfully and corruptly procure any person to swear or affirm falsely as aforesaid, shall be adjudged guilty of subornation of perjury; and shall upon conviction thereof, suffer the punishment directed by law in cases of wilful and corrupt perjury.<sup>47</sup> Procuring it.

§ 3. If any officer on whom any duty is enjoined in this Chapter, shall be guilty of any wilful neglect of such duty, or of any corrupt conduct in the execution of the same, and be thereof convicted, he shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment; the fine in no case to exceed the sum of five hundred dollars, nor the imprisonment the term of one year.<sup>48</sup> Neglect of duty.

§ 4. If any person shall, by bribery, menace, or other corrupt means or device whatsoever, either directly or indirectly, attempt to influence any elector of this state in giving his vote or ballot, or to deter him from giving the same, or disturb or hinder him in the exercise of the right of suffrage, at any election within this state held pursuant to this Chapter, and shall thereof be convicted, such person so offending and convicted, shall be adjudged guilty of a misdemeanor, and be fined or imprisoned according to the discretion of the court before which such conviction shall be had; such fine in no case to exceed five hundred dollars, nor such imprisonment one year.<sup>49</sup> Bribery, &c.

§ 5. If any officer or other person, shall call out or order any of the militia of this state, to appear or exercise on any day during any election to be held by virtue of this Chapter, or within five days pre- Calling out militia.

(46) As to this Article, see cons. U. S. art. 1, § 4; 1 R. L. 142. (47) Laws of 1822, p. 278, § 8. (48) *Ib.* p. 278, § 18. (49) *Ib.* § 20; 1 R. L. 48, § 9.

**TITLE 2.** vious thereto, except in cases of invasion or insurrection, he shall forfeit the sum of five hundred dollars for every such offence.<sup>50</sup>

## TITLE VIII.

### MISCELLANEOUS PROVISIONS.

- Sec. 1.** Hamilton county to be deemed part of Montgomery for the purposes of this Chapter.  
**2.** Hudson a town for same purpose.  
**3, 4 & 5.** Majority of inspectors to act; proceedings if majority do not attend.  
**6.** When notice of election, &c. to be directed to county clerk, and when to first judge.  
**7.** Accounts of clerks for services under this Chapter to to be a county charge.

Hamilton  
county.

§ 1. The county of Hamilton shall be a part of the county of Montgomery, for the purposes of all elections under this Chapter.<sup>51</sup>

Hudson.

§ 2. The city of Hudson shall be considered a town, for all the purposes contemplated by this Chapter.<sup>52</sup>

Inspectors.

§ 3. It shall be lawful for a majority of the inspectors of any election, held in pursuance of this Chapter, to execute all the trusts and duties required to be executed by the inspectors of any such election.

It.

§ 4. If a majority shall not be present at one or more of the days on which the election is held, the inspectors or inspector attending, shall appoint so many electors of the town or ward, to act as inspectors, as may be necessary to form a board.

It.

§ 5. The persons so appointed shall take the constitutional oath, and continue to act until a majority of the inspectors shall attend.

Notices to  
clerk and first  
judge.

§ 6. No notice of an election, nor copy of the governor's proclamation, shall, in any case, be directed to the clerk of a county, unless the office of sheriff of such county shall then be vacant; nor to the first judge, unless the offices of sheriff and clerk shall both be vacant.<sup>53</sup>

Accounts.

§ 7. The accounts of the respective clerks of counties, for services performed, and expenses incurred, by virtue of this Chapter, shall be audited, levied, and paid, in like manner as other contingent charges of such counties.<sup>54</sup>

## CHAP. VII.

### Of the Legislature.

**TITLE 1.**—Of the apportionment of the members of the legislature.

**TITLE 2.**—Of the powers, duties and privileges of the two houses, and their members and officers.

**TITLE 3.**—Of applications to the legislature.

**TITLE 4.**—Of the enactment and promulgation of statutes, and of the time from which they take effect.

**TITLE 5.**—Of the mode of taking testimony in certain legislative proceedings.

(50) Laws of 1822, p. 290, § 21. (51) Laws of 1816, p. 119; 1836, p. 336. (52) Laws of 1822, p. 297, § 1; p. 280, § 28. (53) See ante Title 2, art. 1. (54) Laws of 1822, p. 281, § 27.



## TITLE I.



In the county of Essex, one ;  
 In the county of Clinton, one ;  
 In the county of Franklin, one ;  
 In the county of St. Lawrence, two ;  
 In the county of Herkimer, three ;  
 In the county of Oneida, five ;  
 In the county of Madison, three ;  
 In the county of Oswego, one ;  
 In the county of Lewis, one ;  
 In the county of Jefferson, three ;  
 In the county of Delaware, two ;  
 In the county of Otsego, four ;  
 In the county of Chenango, three ;  
 In the county of Broome, one ;  
 In the county of Cortland, two ;  
 In the county of Tompkins, three ;  
 In the county of Tioga, two ;  
 In the county of Onondaga, four ;  
 In the county of Cayuga, four ;  
 In the county of Seneca, two ;  
 In the county of Ontario, three ;  
 In the county of Wayne, two ;  
 In the county of Yates, one ;  
 In the county of Steuben, two ;  
 In the county of Livingston, two ;  
 In the county of Monroe, three ;  
 In the county of Genesee, three ;  
 In the county of Orleans, one ;  
 In the county of Niagara, one ;  
 In the county of Erie, two ;  
 In the county of Allegany, one ;  
 In the county of Cattaraugus, one ;  
 In the county of Chautauque, two.<sup>2</sup>

Future ap-  
portionments  
of assembly.

§ 3. In every new apportionment to be hereafter made of members of assembly, they must be apportioned among the several counties of the state, as nearly as may be, according to the number of their respective inhabitants, excluding aliens, paupers, and persons of colour not taxed.<sup>3</sup>

When to be  
made.

§ 4. Such an apportionment must be made by the legislature at its first session after the return of every enumeration of the population of the state, made in pursuance of the constitution.<sup>3</sup>

One member  
to each coun-  
ty.

§ 5. Every county established and separately organized before the tenth day of November, in the year one thousand eight hundred

twenty-one, and then being one of the counties of the state, must always be represented by at least one member of the assembly.<sup>4</sup> TITLE 2.

§ 6. No change can be made, that shall have the effect of reducing the number of the inhabitants of any such county, according to the last state census, below the number required to entitle it to a member of the assembly, according to the existing ratio of representation. Change in county.

§ 7. No new county can be erected, unless its population, according to the return of the last state census, shall entitle it to a member.<sup>4</sup> New county.

**TITLE II.**

**OF THE POWERS, DUTIES AND PRIVILEGES, OF THE TWO HOUSES,  
AND THEIR MEMBERS AND OFFICERS.**

- Sec. 1. Legislature when to assemble.
- 2. Powers of each house.
- 3. Journal to be kept.
- 4. Doors to be kept open.
- 5. Adjournments.
- 6. Members privileged from arrest on civil process, during their attendance.
- 7. Privileged in like manner for fourteen days before session, and while going and returning.
- 8. Further privilege after adjournment.
- 9. Privilege while absent with leave.
- 10. Officers in actual attendance privileged from arrest.
- 11. Members not to be questioned in any other place, for any speech in the house.
- 12. Each house has power to expel members, and to punish members and officers.
- 13. Each house has power to punish a breach of its privileges, or of the privileges of its members; cases defined in which that power is to be exercised.
- 14. Imprisonment when ordered by either house, shall not extend beyond same session.
- 15. Assembly has power of impeaching all civil officers, but a majority of all the members elected must concur.
- 16. Clerks of senate and assembly to give bonds.
- 17. Clerks to prepare indexes to journals, and to furnish to secretary of state copies of concurrent resolutions.

§ 1. The legislature shall assemble at the Capitol, in the city of Albany, on the first Tuesday of January, in every year.<sup>6</sup> Time of meeting.

§ 2. A majority of each house constitutes a quorum to do business. Each house determines the rules of its own proceedings, and is the judge of the qualifications of its own members.<sup>6</sup> Quorum, &c.

§ 3. Each house is required to keep a journal of its proceedings, and to publish the same, except such parts, as may in its judgment, require secrecy.<sup>7</sup> Journals.

§ 4. The doors of each house are to be kept open, except when the public welfare shall require secrecy.<sup>7</sup> Sittings public.

§ 5. Neither house can, without the consent of the other, adjourn for more than two days.<sup>7</sup> Adjournments.

(4) Cons. art. 1, § 7. (5) Cons. art. 1, § 14. (6) Cons. art. 1, § 3. (7) Cons. art. 1, § 4.

**TITLE 2.**  
  
 Privileged  
 from arrest.

§ 6. Every member of the legislature shall be privileged from arrest on civil process, during his attendance at the session of the house to which he shall belong, except on process issued in any suit, brought against him for any forfeiture, misdemeanor, or breach of trust, in any office or place of public trust held by him.<sup>8</sup>

1b. § 7. Each member shall enjoy the like privilege, for the space of fourteen days previous to any such session, and also while going to or returning from such session, provided the time of such going or returning do not exceed fourteen days.<sup>8</sup>

1b. § 8. Each member shall enjoy the like privilege after any adjournment of the legislature, until its next meeting, when such adjournment shall not exceed fourteen days.<sup>8</sup>

1b. § 9. Each member shall enjoy the like privilege, while absent with leave of the house to which he shall belong.

1b. officers. § 10. No officer of either house, whilst in actual attendance upon the house, shall be liable to arrest on civil process.

Freedom of  
 debate. § 11. For any speech or debate in either house of the legislature, the members shall not be questioned in any other place.<sup>9</sup>

Punishment  
 of members,  
 &c. § 12. Each house has the power to expel any of its members, and to punish its members and officers for disorderly behaviour, by imprisonment; but no member shall be expelled, until the report of a committee, appointed to inquire into the facts alleged as the ground of his expulsion, shall have been made.

Breach of  
 privileges,  
 when punish-  
 able. § 13. Each house has the power to punish as a contempt, and by imprisonment, a breach of its privileges, or of the privileges of its members; but such power shall not hereafter be exercised, except against persons guilty of one or more of the following offences:

1. The offence of arresting a member or officer of the house, in violation of his privilege from arrest, as herein before declared.

2. That of disorderly conduct in the immediate view and presence of the house, and directly tending to interrupt its proceedings.

3. That of publishing any false and malicious report of the proceedings of the house, or of the conduct of a member in his legislative capacity.

4. That of refusing to attend, or be examined as a witness, either before the house, or a committee, or before any person authorised before the house, or by a committee, to take testimony in legislative proceedings.

5. That of giving or offering a bribe to a member, or of attempting by menace, or any other corrupt means or device, directly or indirectly to control or influence a member in giving his vote, or to prevent him from giving the same.

(8) 1 R. L. 122, § 1 & 3. (9) 1 R. L. 43, § 11.

§ 14. In all cases in which either house shall punish any of its members or officers, or any other person, by imprisonment, such imprisonment shall not extend beyond the same session of the legislature. TITLE 3.  
Term of imprisonment.

§ 15. The assembly has the power of impeaching all civil officers of this state, for mal and corrupt conduct in office, and for high crimes and misdemeanors; but a majority of all the members elected must concur in an impeachment. <sup>10</sup> Power of impeachment.

§ 16. Every person appointed to the office of clerk of the senate or assembly, shall, before he enters on the duties of his office, execute a bond to the people of this state, with such security as the comptroller shall approve, in the penal sum of five thousand dollars, conditioned that he shall faithfully perform the duties of his office, and account for all monies which may come to his hands by virtue thereof. <sup>11</sup> Clerks of senate and assembly.

§ 17. The clerks of the senate and assembly, immediately after any session of their respective houses, shall prepare indexes to the journals kept by them, and shall deliver the same to the state printer, for publication. And whenever any concurrent resolution shall be passed by the legislature, it shall be the duty of the clerk of the house in which it originated, to furnish a certified copy thereof to the secretary of state, to the end that the same may be published with the laws, in case the secretary shall deem it necessary.

### TITLE III.

#### OF APPLICATIONS TO THE LEGISLATURE.

- Sec. 1. Persons intending to apply for new county, &c. to give notice of their applications.  
 2. Notice to be given of applications for acts of incorporation, &c.  
 3. Notices how published, if no paper in county.  
 4. Contents of the notice in the case of corporations.  
 5. Contents in other cases.

§ 1. All persons applying to divide or alter the bounds of any county, city or village; or to erect a new county; or to incorporate a new city or village: Certain applicants to give notice..

And all persons applying for the removal of any court-house; or the imposing of a tax for making or improving a road, or for any other local purpose in any county, where all or any of the inhabitants of such county are proposed to be taxed:

Shall give notice of such intended application by advertisement to be published for at least six weeks successively, immediately before such application, or before the first day of the session at which the same is to be made, in a newspaper printed in the county or in each of the counties where the objects of such application are intended to be carried into effect, and also in case of intended application for the imposition of any tax as aforesaid, in the state paper. <sup>12</sup> Notice how given.

(10) Cons. art. 5, § 2. (11) Laws of 1926, p. 377, § 3. (12) 1 R. L. 268; laws of 1818, p. 122.

TITLE 4.  
 1b.

§ 2. Every association intending to apply to the legislature for an act of incorporation, and every corporation intending to apply for an alteration, amendment, or extension of its charter, shall cause the like notice of such application to be published in the state paper, and also in a newspaper printed in the county in which such corporation is intended to be, or shall have been, established.<sup>13</sup>

1b. § 3. If no newspaper be printed in a county in which any notice is required to be published, such notice shall be published in like manner, in the place nearest thereto in which a newspaper shall be printed.<sup>13</sup>

Contents of notice. § 4. If the application be for an act of incorporation, the notice shall specify the amount of the capital stock requisite to carry the objects of such incorporation into effect; and if the application be for an alteration in any charter already granted, the notice shall state specifically the alteration intended to be applied for.<sup>13</sup>

1b. § 5. The notice of all other applications, of which notice is required to be given, shall specify the nature and objects of such intended applications.<sup>13</sup>

#### TITLE IV.

##### OF THE ENACTMENT AND PROMULGATION OF STATUTES, AND OF THE TIME FROM WHICH THEY TAKE EFFECT.

- Sec. 1. Powers of the houses in regard to originating and amending bills.  
 2. Assent of two-thirds necessary to certain bills.  
 3. No bill deemed to have passed with two-thirds, unless so certified.  
 4. Every bill passed and certified to be presented to governor.  
 5. Governor, if he disapprove, to return it with objections to the house where it originated.  
 6. If two-thirds agree to pass it, notwithstanding objections, to be so certified.  
 7. Like proceeding in other house.  
 8. In such cases yeas and nays to be entered on journals.  
 9. If bill be not returned by governor within ten days, it becomes a law.  
 10. Secretary of state to receive and deposit laws in his office.  
 11. To certify and endorse upon every bill the time it became a law.  
 12. Unless a different time be prescribed, laws to take effect on the twentieth day after their passage.  
 13. Secretary of state to deliver copies of laws to state printer.

Powers of two houses. § 1. Any bill may originate in either house of the legislature; and all bills passed by one house may be amended by the other.<sup>14</sup>

Two-third bills. § 2. The assent of two-thirds of the members elected to each branch of the legislature is requisite to every bill appropriating the public monies or property for local or private purposes, or creating, continuing, altering or renewing any body politic or corporate.<sup>15</sup>

1b. § 3. No bill shall be deemed to have been passed by the assent of two-thirds of the members elected to each house, unless so certified by the presiding officer of each house.

(13) 1 R. L. 288; laws of 1818, p. 121. (14) Cons. art. 1, § 8. (15) Cons. art. 7, § 9.

§ 4. Every bill thus passed and certified, must, before it becomes a law, be presented to the governor ; if he approves, he must sign it ; and he shall endorse thereon a certificate of his approbation, and deliver the same so endorsed to the secretary of state.<sup>16</sup> TITLE 4.  
Governor's assent.

§ 5. If the governor do not approve the bill, he shall return it with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it.<sup>16</sup> Governor's objections.

§ 6. If two-thirds of the members present shall agree to pass the bill, notwithstanding such objections, the presiding officer of such house shall endorse thereon a certificate of such passage by the number so required.<sup>16</sup> Proceedings thereon.

§ 7. The bill shall then be sent, together with the objections, to the other house, by which it shall likewise be reconsidered ; if approved by two-thirds of the members present it becomes a law, and the presiding officer shall endorse thereon a certificate of its passage by the number required, and deliver the bill to the secretary of state.<sup>16</sup>

§ 8. In all such cases the votes of both houses shall be determined by yeas and nays ; and the names of the persons voting for and against the bill be entered on the journal of each house respectively.<sup>16</sup> Yeas and nays.

§ 9. If a bill be not returned by the governor within ten days (Sundays excepted) after the same shall have been presented to him, it becomes a law in like manner as if he had signed it ; unless the legislature, by their adjournment prevent its return, in which case it does not become a law.<sup>16</sup> If not returned.

§ 10. The secretary of state shall receive every bill which shall have passed the senate and assembly, and have been approved and signed by the governor, or which shall have become a law notwithstanding the objections of the governor, or which, not having been returned by the governor within ten days, shall have become a law ; and shall deposit such laws in his office.<sup>16</sup> Duty of secretary of state.

§ 11. He shall certify and endorse upon every such bill, the day, month and year, when the same so became a law, and such certificate shall be conclusive evidence of the facts therein declared.

§ 12. Every law, unless a different time shall be prescribed therein, shall commence and take effect, throughout the state, on and not before the twentieth day after the day of its final passage, as certified by the secretary of state. Time when laws take effect.

§ 13. The secretary of state shall forthwith deliver a certified copy of each law, other than acts of incorporation, deposited in his office, and of his endorsement thereon, to the state printer, to be printed and Copy for publication.

**TITLE 5.** published by him, in the manner prescribed in the eighth Chapter of this act.

## TITLE V.

### OF THE MODE OF TAKING TESTIMONY IN CERTAIN LEGISLATIVE PROCEEDINGS.

- Sec. 1. Chairmen of committees may administer oaths to witnesses.  
 2. Chairman of certain committees may issue process for witnesses.  
 3. Such chairman may also issue commissions to examine witnesses.  
 4. When such commission may be issued during recess of legislature.  
 5. How commissions to be directed ; to be accompanied by interrogatories.  
 6. Persons to whom commission shall be directed, to take oath ; they may issue process for witnesses.  
 7. Unless otherwise directed witnesses to be examined in private.  
 8. Witnesses to be examined on oath ; their testimony to be reduced to writing.  
 9. Depositions to be transmitted to chairman of the committee.  
 10. Commission may be executed by one or more ; may also be directed to one.  
 11. The persons by whom the commission is executed, and also the witnesses examined, to be paid a reasonable compensation.  
 12. Persons desirous to take testimony in regard to contested elections, may apply to a judge or recorder, &c. for process.  
 13. Such officer to issue a summons, directed to all such witnesses as shall be named.  
 14. Summons how served.  
 15. Notification to adverse party, how to be issued.  
 16. Notification how to be served.  
 17. Witnesses who shall attend, to be examined.  
 18. Testimony to be reduced to writing, and to be transmitted to clerk of proper house.  
 19. Witnesses to be entitled to same fees as in courts of record.  
 20. Penalty of 100 dollars on witnesses refusing or neglecting to attend as summoned.  
 21. Fees of the officer for issuing summons and taking testimony.

Witnesses before committees.

§ 1. The chairman of any committee, either of the senate or assembly, or of any joint committee, shall be authorised to administer oaths to all witnesses coming before such committee for examination.

Process for witnesses.

§ 2. Every chairman of a committee, which, by the terms of its appointment, shall be authorised to send for persons and papers, shall have power, under the direction of the committee, to issue compulsory process for the attendance of any witness within the state, whom the committee may wish to examine.

Commission to take testimony.

§ 3. Every such chairman shall also have power, under the direction of the committee, to issue a commission for the examination of any witness, who shall be without the jurisdiction of the state, or if within the state, shall be unable to attend, or who shall, for special reasons, be excused by the committee from attendance.

It, during recess.

§ 4. Whenever a committee shall obtain authority for that purpose, from the house or legislature by which it shall be appointed, it may issue such commission to be executed during the recess of the legislature.

§ 5. Every such commission shall be directed to such magistrates or other persons as the committee may designate; and interrogatories, framed by the committee, shall be annexed thereto.

TITLE 5.  
How directed, &c.

§ 6. The persons to whom such commissions shall be directed, if they reside within the state, and accept the trust, shall, before they enter on the execution of their duties, take the oath of office prescribed in the constitution; and such commissioners shall have power to issue process to compel the attendance of the witnesses whom they shall be required to examine.

How executed.

§ 7. Unless otherwise instructed by the committee, it shall in all cases by the duty of the commissioners to examine in private every witness attending before them, and not to make public the particulars of such examination, until the same shall be made public by order of the house or legislature appointing the committee.

Its examination private.

§ 8. Every witness so attending shall be examined on oath or affirmation, and his testimony shall be reduced to writing by the commissioners, and signed by the witness.

Witness to be sworn.

§ 9. When the commission shall have been duly executed, the commissioners shall annex thereto the depositions of the witnesses, duly certified by them, and shall, without delay, transmit the same, enclosed and under seal, to the chairman of the committee by which the commission shall have been issued.

Depositions to be transmitted.

§ 10. Every such commission may be executed by any one or more of the persons to whom the same shall be directed, and may, in the discretion of the committee issuing the same, be directed to a single person.

Who may execute commission.

§ 11. The persons executing any such commission, and all persons examined as witnesses by commissioners, or by a committee of either house, or of the legislature, shall be paid out of the treasury a reasonable allowance for their services, expenses and attendance, to be fixed by the committee, and certified by the chairman thereof, and to be audited by the comptroller.

Compensation to commissioners and witnesses.

§ 12. When any person shall intend to contest the election of any member of the senate or assembly, or to support any such election so intended to be contested, and shall be desirous of obtaining testimony respecting any such election; he may make application to the first judge of a county, or to any judge of a county court of the degree of counsellor at law, or to the mayor or recorder of any city, for process to procure the attendance of the witnesses, whose testimony he may be desirous to obtain.

Contested elections.

§ 13. The officer to whom such application shall be made, shall thereupon issue a summons, directed to all such witnesses as shall be

Summons for witnesses.



**TITLE 5.** named by such applicant, and requiring the attendance of such witnesses before him, at some convenient time and place, to be expressed in such summons, in order to be then and there examined touching such election.

**How served.** § 14. Such summons shall be served, by delivering a copy thereof to each witness named therein, a reasonable time before the day on which the attendance of such witness is required.

**Notification to other party.** § 15. Whenever any summons shall be issued as aforesaid, the officer issuing the same shall deliver to the applicant a notification, directed to the opposite party, and stating the object of such application, the name of the applicant, and the time and place fixed for the examination of the witnesses.

**How served.** § 16. Such notification shall be served on the opposite party, by delivering to him, or leaving at his usual place of abode, a copy thereof, a reasonable time before the day fixed for the aforesaid examination; and such examination shall not be proceeded in, without proof of the due service of such notification.

**Witnesses how examined.** § 17. All witnesses who shall attend, pursuant to said summons, and all other witnesses who shall be produced at the time and place aforesaid, by either of the parties, shall then and there be examined, on oath or affirmation, before the officer who issued the summons, touching all such matters and things respecting the election about to be contested, as shall be proposed by either of the parties.

**Depositions how transmitted.** § 18. The testimony given on such examination, shall be reduced to writing by the officer taking the same, and signed by the witnesses respectively; after which, such officer shall transmit the said testimony, duly certified under his hand, together with a copy of the summons and notification issued by him, and of the proof of the service of such notification, enclosed and under seal, to the clerk of the senate, or the house of assembly, as the case may require.

**Witness's fees.** § 19. Every witness attending by virtue of any such summons, shall be entitled to the same fees as are allowed to witnesses in civil suits in courts of record, to be paid by the party at whose instance such witness was summoned.

**Penalty for non-attendance.** § 20. If any person, being summoned in the manner aforesaid, shall refuse or neglect to attend in pursuance of such summons, he shall forfeit and pay the sum of one hundred dollars, to the use of the people of this state.

**Fees of officer.** § 21. The following fees shall be allowed to the officer issuing such summons and taking such examination;

- For issuing the summons, twenty-five cents;
- For the notification to the opposite party, twenty-five cents;
- For administering an oath or affirmation, twelve and a half cents;

For reducing the testimony of each witness to writing, ten cents TITLE 6. for each folio ; and five cents for every copy thereof, for each folio ;

For certifying the testimony and enclosing the same to the clerk of the senate or assembly, twenty-five cents.

**TITLE VI.**

OF THE COMPENSATION OF THE MEMBERS OF THE LEGISLATURE, AND THEIR OFFICERS, AND THE CONTINGENT EXPENSES OF THE SENATE AND ASSEMBLY.

- Sec. 1. Members to receive a compensation, but no increase can take effect during year in which it was made. And no law can be passed increasing their pay beyond three dollars a day.
- 2. Members to receive three dollars a day for attendance and travelling.
- 3. Distance how to be computed.
- 4. Members who are prevented from attending by sickness, to have like pay.
- 5. Comptroller to draw warrant on certificate of presiding officer.
- 6. Salaries allowed to clerks ; compensation for making indexes.
- 7. Pay of chaplains, sergeants-at-arms, &c.
- 8. Contingent expenses to be paid out of treasury, and comptroller to make advances therefor as shall be necessary.
- 9. Purchases to be made by clerks under direction of comptroller.
- 10. Clerks to account with comptroller at the end of each session.

§ 1. The members of the legislature are entitled to receive for their services, a compensation to be ascertained by law, and paid out of the public treasury ; but no increase of the compensation can take effect, during the year in which it shall have been made. And no law can be passed increasing the compensation of the members of the legislature beyond the sum of three dollars a day.<sup>18</sup> Provisions concerning compensation.

§ 2. Each member of the senate and assembly, shall be entitled to receive three dollars for every day he shall attend either of them ; and the like compensation for every twenty miles of the distance from the place of his residence to the place of the meeting of his house.<sup>19</sup> Amount of daily pay.

§ 3. Such distance shall be estimated by the most usual route, and shall be computed both for the travelling to, and returning from, the place of meeting.<sup>19</sup> Travelling.

§ 4. If any member of the senate or assembly shall, after his arrival at the place of the meeting of either house, or on his way thereto, be prevented by indisposition, from attending either of the said houses, he shall be entitled to the like compensation for every day he shall be so prevented.<sup>19</sup> Sickness.

§ 5. The comptroller shall draw his warrant for the payment of such sum as may so become due to each member respectively, upon the receipt of a certificate, signed by the president of the senate, or the speaker of the assembly, (as the case may be,) setting forth the Certificate of presiding officers.

(18) Cons. art. 1, § 9. (19) Laws of 1822, p. 10, § 1.

**TITLE 6.** number of days that the member in whose favor it shall be given, may have attended, and the estimated distance of his place of residence, from the place of meeting.<sup>20</sup>

Salaries of clerks.

§ 6. There shall be allowed to the clerk of the senate, an annual salary of one thousand two hundred dollars; and to the clerk of the assembly an annual salary of one thousand eight hundred dollars; in lieu of all compensation and perquisites: and each clerk, from his salary, shall provide his own assistants and clerks. The sum of fifty dollars shall also be allowed to each clerk, for preparing the index to the journals of his house.<sup>21</sup>

Pay of chaplains, &c.

§ 7. The chaplains, the sergeant-at-arms and door-keeper of each house, and the assistant door-keeper of the assembly, shall be entitled to the same compensation for each day's actual attendance, as members of the legislature, to be certified in the same manner; messengers and other officers of either house shall be paid such sums as the house to which they respectively belong, shall by resolution allow, as part of the contingent expenses of such house.

Contingent expenses.

§ 8. The monies required to provide furniture for the senate and assembly chambers, and stationary, firewood, and other articles for the use of the legislature, or of either house, and to defray the contingent expenses of each house, shall be paid out of the treasury: and the comptroller shall, from time to time, cause such advances to be made to the clerks of the senate and assembly, as they shall show to his satisfaction, to be necessary for those purposes, or either of them.<sup>22</sup>

Purchases of furniture, &c.

§ 9. All purchases of furniture, stationary, firewood, and other articles for the use of the legislature, or of either house, shall be made by the clerks of the respective houses, under the direction of the comptroller, and shall be subject to his approbation.<sup>22</sup>

Clerks to account.

§ 10. The clerks of the senate and assembly shall account to the comptroller, at the end of each session, for all monies received by them; and shall furnish to him satisfactory evidence that the charges contained in their accounts are correct and reasonable.<sup>23</sup>

## CHAP. VIII.

Of the duties of the Executive Officers of the State, and of various matters connected with their respective departments.

**TITLE 1.**—Of the governor, lieutenant-governor, or other person administering the government of the state.

**TITLE 2.**—Of the secretary of state.

(20) Laws of 1823, p. 10, § 1. (21) Laws of 1821, p. 249, § 4. (22) 1 R. L. 520, § 4; laws of 1822, p. 301, § 22. (23) Laws of 1826, p. 377, § 1.

TITLE 3.—Of the comptroller.

TITLE 4.—Of the treasurer.

TITLE 5.—Of the attorney-general.

TITLE 6.—Of the surveyor-general.

TITLE 7.—Of the state printer.

TITLE 8.—Provisions relating to two or more of the executive officers.

TITLE 1.

## TITLE I.

### OF THE GOVERNOR, LIEUTENANT-GOVERNOR, OR OTHER PERSON ADMINISTERING THE GOVERNMENT OF THE STATE.

SEC. 1. Military and naval command of governor.

2. His general duties.

3. His general powers.

4. To have custody of the great and privy seals.

5. In case of his impeachment, &c. lieutenant-governor to act.

6. Lieutenant-governor is president of senate.

7. If he be impeached, &c. while office of governor is vacant, president of senate to act as governor.

8. Governor may deliver over persons charged with having committed a crime out of the jurisdiction of the United States.

9. Upon whose requisition such delivery to be made.

10. What evidence governor to require of guilt of person charged.

11. Expense of such delivery to be paid by persons to whom it is made.

12. Governor to notify attorney-general, when suits are commenced against persons holding lands under warranty from state.

13. He may employ counsel to assist attorney-general, in defending such suits.

14. Such counsel and the attorney-general, to be paid out of treasury.

15. Governor may also employ counsel to assist attorney-general, in any suit prosecuted or defended for the state.

16. Governor to exchange copies of session laws with governors of other states.

17. Where laws received by him from other states, to be deposited.

18. Expenses of these duties paid out of treasury.

19. Constitutional and legal provisions in relation to governor, to apply to the person, administering for the time being, the government of the state.

SECTION 1. The governor is general and commander in chief of all the militia, and admiral of the navy of the state, including the land and naval forces of the state, in time of war, or which this state may keep, with the consent of congress, in time of peace.<sup>1</sup>

Governor's command.

§ 2. It is the duty of the governor,

His duty.

1. To communicate by message to the legislature at every session, the condition of the state, and to recommend to them such measures as he judges expedient.

2. To transact all necessary business with the officers of government, civil and military.

3. To expedite all such measures as may be resolved upon by the legislature, and to take care that the laws be faithfully executed.<sup>2</sup>

§ 3. He has power,

Powers.

1. To convene the legislature or the senate only, on extraordinary occasions.

(1) Cons. art. 3, § 4; art. 7, § 7; cons. U. S. art. 1, § 8. (2) Cons. art. 3, § 4.

## TITLE I.

2. To grant reprieves and pardons after conviction, for all offences, except treason and cases of impeachment, and to suspend the execution of the sentence or conviction for treason, until the case shall be reported to the legislature, at its next session.<sup>3</sup>

*Seals of state.* § 4. The governor shall have the custody of the great and privy seals, of which descriptions in writing, have been deposited and recorded, in the secretary's office, and which shall be and continue, the great seal and the privy seal of this state.<sup>4</sup>

*Lieutenant-governor.* § 5. In case of the impeachment of the governor, or his removal from office, death, resignation or absence from the state, the powers and duties of the office devolve upon the lieutenant-governor, for the residue of the term, or until the governor, absent or impeached, shall return or be acquitted. But when the governor shall, with the consent of the legislature, be out of the state in time of war, at the head of a military force thereof, he still continues commander in chief of all the military force of the state.<sup>5</sup>

*Ib.* § 6. The lieutenant-governor is president of the senate, but has only a casting vote therein.<sup>6</sup>

*Ib.* § 7. If, during a vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, or die, or be absent from the state, the president of the senate must act as governor, until the vacancy shall be filled, or the disability shall cease.<sup>6</sup>

*Foreign criminals.* § 8. The governor may, in his discretion, deliver over to justice, any person found within the state, who shall be charged with having committed without the jurisdiction of the United States, any crime, except treason, which, by the laws of this state, if committed therein, is punishable by death or by imprisonment in the state prison.<sup>7</sup>

*Ib.* § 9. Such delivery can only be made, on the requisition of the duly authorised ministers or officers of the government, within the jurisdiction of which, the crime shall be charged to have been committed.<sup>7</sup>

*Ib.* § 10. It shall be the duty of the governor, to require such evidence of the guilt of the person so charged, as would be necessary to justify his apprehension and commitment for trial, had the crime charged, been committed within this state.<sup>7</sup>

*Ib.* § 11. The expense of apprehending and delivering such person, shall be defrayed by those to whom he shall be delivered.<sup>7</sup>

*Suits.* § 12. Whenever the governor shall receive notice of any suit or proceeding having been commenced, for the recovery of any lands held under a warranty from the people of this state, it shall be his du-

(3) Cons. art. 3, § 4. (4) 1 R. L. 459, § 6. (5) Cons. art. 3, § 6. (6) *Ib.* § 7. (7) Laws of 1822, p. 139.

ty to inform the attorney-general, and require him to make every legal or equitable defence, against such suit or proceedings. TITLE 2

§ 13. The governor may employ such able counsel and other persons, as he may judge proper, to assist the attorney-general in making such defence.

§ 14. Such sums of money, as the governor shall certify to be reasonable and just, for the payment of counsel fees, and other expenses incurred in every such defence, or as an allowance to the attorney-general for his services and expenses therein, shall be paid out of the treasury.

§ 15. The governor may also employ such counsel as he may deem proper, to assist the attorney-general in any suit prosecuted or defended by him, in behalf of this state; and the reasonable compensation of such counsel, to be certified by the governor, shall be paid out of the treasury.<sup>8</sup>

§ 16. It shall be the duty of the governor to transmit, free of expense, to the executive of each state in the union, three copies of the acts of each future session of the legislature of this state, as soon as the acts shall be printed, and to request a similar communication to be made to him, of the laws of the several states.<sup>9</sup> Session laws.

§ 17. Whenever, in pursuance of such request, the statutes of any other state shall be received by the governor, he shall deposit one copy thereof in the state library, one in the senate chamber, and one in the assembly chamber; if but one copy be received, it shall be deposited in the state library.<sup>9</sup> Laws of other state.

§ 18. All expenses incurred in the execution of the duties prescribed by the two last preceding sections, shall be paid out of the treasury.<sup>9</sup> Expenses.

§ 19. Every provision in the constitution and laws of this state, in relation to the powers and duties of the governor, and in relation to acts and duties to be performed, by other officers or persons, towards him, shall be construed to extend to the person administering, for the time being, the government of the state. General provision.

## TITLE II.

### OF THE SECRETARY OF STATE.

1. Secretary of state to have care of all books and papers deposited in his office.
2. All deeds to state, to be deposited there.
3. To provide books for recording depositions of resident aliens.
4. Copies of papers in his office certified by him, &c. evidence.
5. Secretary of state to attend legislature, to receive bills that become laws.
6. To cause original laws passed at each session to be bound.

(8) 1 R. L. 156, § 8; 1b. 248, § 24. (9) Laws of 1825, p. 7.

**TITLE 2.** *Szc.* 7. One copy of the laws printed by state printer, to be deposited in his office, after being compared with original laws on file.

8. To distribute the printed laws and journals of each session.
9. To send four copies to secretary of state of the United States.
10. To deliver one copy to Atheneum in Philadelphia, Boston, New-York and Albany, and one to Historical society of New-York.
11. To distribute laws of congress in same manner as laws of this state.
12. When new town or county erected, such town or county to be furnished with a complete set of laws, commencing with the revised laws of this session.
13. Secretary of state to purchase necessary sets of laws for distribution.
14. To transmit to county clerks such number of laws and journals as are to be distributed in their counties.
15. Also to send the laws to different states.
16. To deliver to county clerks entitled thereto, the volumes of reports deposited in his office for them by state reporter.
17. To procure for and deliver to clerks of new counties, a set of reports of supreme court.
18. To send to county clerks a copy of state prison reports.
19. Also to send lists of licensed hawkers, &c.
20. Description in writing of arms of state, and of great and privy seals, and of seal of secretary of state, to remain public records.
21. What papers to be sealed with privy seal.
22. Deputy secretary, his powers and duties.

General du-  
tion.

§ 1. The secretary of state shall have the custody of all the books, records, deeds, parchments, maps, and papers, now deposited, or that may hereafter be deposited or kept, in his office; and shall, from time to time, make such provision for the arrangement and preservation thereof, as he may deem necessary.

State deeds.

§ 2. All deeds and conveyances, other than mortgages, belonging to the people of this state, shall be deposited in the office of the secretary of state.<sup>10</sup>

Books for re-  
cording.

§ 3. The secretary of state shall provide proper books, for the recording of the depositions or affirmations required by law, to be made by resident aliens, desirous to take and hold real estate; and shall record the same in such books.<sup>11</sup>

Copies.

§ 4. All copies of records and papers in the office of the secretary of state, certified by him, and authenticated by the seal of his office, shall, in all cases, be evidence, equally and in like manner, as the original.<sup>12</sup>

Laws.

§ 5. The secretary of state shall attend at every session of the legislature, for the purpose of receiving bills which shall have become laws.<sup>13</sup>

lb.

§ 6. Immediately after each session of the legislature, the secretary of state shall cause the original laws passed at such session, together with such certified copies of concurrent resolutions as shall have been delivered to him, to be bound together in a volume, of such size as he shall think proper; and he shall also cause the title thereof, with the session at which the same shall have been passed, to be written or printed on the back of such volume.<sup>14</sup>

(10) 1 R. L. 477, § 10. (11) Laws of 1825, p. 427, § 2. (12) *Ib.*; 1 R. L. 537, § 86. (13) 1 R. L. 468, § 1. (14) *Ib.* § 2.

§ 7. He shall deposit in his office, one copy of the laws printed by the state printer, having first examined and compared the same with the original laws on file, and noted at the end of each act any error or omission that may be found in the printed copy; and shall cause the title thereof, with the session at which the same shall have passed, to be written or printed on the back of such volume.<sup>15</sup>

TITLE 2  
ib.

§ 8. The secretary of state shall distribute the printed laws and journals of each session, immediately after their publication, as follows:

Laws and journals.

1. To the clerk of the senate, for the use of the senate, eight copies.
2. To the clerk of the assembly, for the use of the assembly, twenty copies.
3. To each of the following officers and persons, namely: the governor, the lieutenant-governor, the members of the senate and assembly, the chancellor, the justices of the supreme court, the circuit judges, the comptroller, the treasurer, the surveyor-general, the attorney-general, the librarian of the state library, for the use of the library, the commissary-general, the adjutant-general, and the several county clerks, one copy.
4. To each of the following officers, namely: town clerks, district attornies, and supervisors' clerks, one copy of the laws, without the journals.

§ 9. The secretary of state shall transmit four copies of the printed laws of each session, immediately after their publication, to the secretary of state of the United States.<sup>16</sup>

§ 10. He shall also deliver to the Atheneum of the city of Philadelphia, and to the Atheneum of the city of Boston, or to such person as they shall respectively direct, a copy of the printed laws passed at each future session of the legislature; and in like manner to the Atheneums of the cities of New-York and Albany, and the Historical society of the city of New-York, one copy both of the laws and journals.<sup>17</sup>

§ 11. He shall also cause the acts of the congress of the United States, which may be received at his office, to be distributed in the same manner as the laws of this state are directed to be distributed.<sup>18</sup>

Acts of congress.

§ 12. Whenever a new county or town shall be erected, the secretary of state, shall transmit to the clerk of such county or town, a complete set of the laws of this state, commencing with the revised laws passed at this session of the legislature, and including the laws subsequently passed.

New county, &c.

§ 13. The secretary of state shall be authorised under the direction of the governor, to purchase, from time to time, as many sets of

(15) 1 R. L. 483, § 2. (16) Laws of 1820, p. 18. (17) Ib. p. 7. (18) 1 R. L. 484, § 13.



**TITLE 2** the laws of this state, as may be necessary for the supply of new counties and towns, and for other objects required by law.<sup>19</sup>

Laws and journals.

§ 14. The secretary of state, as soon as may be, after the laws and journals of each session have been deposited in his office, shall transmit, in boxes, at the expense of the state, to each county clerk, the requisite number of laws and journals intended for the use of such county, and required to be distributed to the members of the legislature residing therein, and to the other officers in such county entitled thereto.<sup>20</sup>

Laws for other states.

§ 15. He shall also put up in boxes, the laws directed to be sent by the governor to the several states in the union, and shall transmit the same, at the expense of the state, in such manner as the governor shall direct.<sup>20</sup>

Reports.

§ 16. He shall, from time to time, deliver to such of the county clerks as shall be entitled thereto, such copies of the reports published by the state reporter, as shall have been deposited in his office for that purpose by the reporter.<sup>21</sup>

It.

§ 17. He shall also procure, at the expense of this state, and deliver to the clerk of each county hereafter erected, a complete set of the reports of the supreme court of this state, for the use of the county courts of such county.<sup>22</sup>

State prison reports.

§ 18. The secretary of state shall, annually, on or before the first Tuesday of May, transmit to each of the county clerks in this state, a copy of the reports received by him, for the preceding year, from the agents of the several state prisons in this state.<sup>23</sup>

Pedlars, &c.

§ 19. He shall, on or before the tenth day of May, in each year, transmit to each county clerk in this state, a certified list of the names of the several persons licensed as hawkers, pedlars, or petty chapmen.<sup>23</sup>

Arms and seals.

§ 20. The description, in writing, of the arms of the state, and of the great and privy seals, and of the seal of office of the secretary of state, deposited and recorded in the secretary's office, shall remain as public records; and the said arms shall continue to be the arms of the state, and the said seal of office, to be the seal of office of the secretary of state.<sup>24</sup>

It.

§ 21. The privy seal, shall be the seal for military commissions and all such matters as have issued under the great seal since the sixteenth day of March, one thousand seven hundred and seventy-eight, except copies of papers and records, certified by the secretary of state, or his deputy, and authenticated under his seal of office, shall continue

(19) Laws of 1818, p. 234. (20) Laws of 1815, p. 230, § 5. (21) 1 R. L. 320, § 10.  
(22) Laws of 1824, p. 74. (23) Laws of 1819, p. 90, § 15; 2 R. L. 229, § 3. (24) 1 R. L. 459, § 6.

to be issued under the great seal, and shall be made out and recorded in the secretary's office.<sup>25</sup> ART. 1.

§ 22. There shall be a deputy secretary of state, who may perform all the duties belonging to the office of secretary of state; except as commissioner of the land-office, commissioner of the canal fund, state canvasser, state sealer of weights and measures, and superintendent of common schools. Deputy secretary.

**TITLE III.**

**OF THE COMPTROLLER.**

ART. 1.—Of the general duties and powers of the comptroller.

ART. 2.—Of proceedings against persons accountable for public monies.

ART. 3.—Of the settlement of accounts for lands purchased from, or mortgaged to the people of this state.

**ARTICLE FIRST.**

*Of the General Duties and Powers of the Comptroller.*

Sec. 1. His general duties.

2. To require persons receiving public monies to account to him.
3. May require persons presenting accounts, to make oath.
4. He shall countersign and enter all treasury checks and receipts.
5. He is to draw in favor of treasurer, for dividends on all stock owned by state.
6. To procure monthly statements from the banks in which the treasurer keeps an account.
7. To keep an account between the state and the treasurer.
8. To examine monthly the bank books kept by the treasurer.
9. To examine bonds, &c. on which money may be due to the state.
10. To send annually to auctioneers, all new auction laws, and to report to the legislature the returns made by them.
11. To make temporary loans, when necessary, at an interest not exceeding six per cent.
12. Such loans to be paid as soon as sufficient money in treasury.
13. Comptroller to vote on stocks owned by state.
14. May publish from time to time laws relating to payment of money due the state, or relating to duties to be performed by public officers.
15. When monies paid at treasury through mistake, in certain cases, comptroller to draw his warrant on the treasurer in favor of the person who paid it.
16. All mortgages, &c. given to secure money to the state, to be deposited in comptroller's office.
17. Comptroller to direct in what banks certificates of stock owned by state shall be deposited.
18. Deputy comptroller, his powers.

§ 1. It shall be the duty of the comptroller,

1. To superintend the fiscal concerns of the state, and to manage the same in the manner required by law. General duties
2. To exhibit to the legislature, at its annual meeting, a complete statement of the funds of the state, of its revenues, and of the public expenditures during the preceding year, with a detailed estimate of the expenditures, to be defrayed from the treasury for the ensuing year, specifying therein each object of expenditure, and distinguishing between such, as are provided for by permanent or temporary

**TITLE 3.** appropriations, and such, as require to be provided for by law : and shewing the means, from which such expenditures are to be defrayed.

3. To suggest plans for the improvement and management of the public revenues.

4. To keep and state all accounts between this state and the United States, and all other accounts in which the state is interested.

5. To examine and settle the accounts of all persons indebted to the state, and to certify the amount, or balance, to the treasurer.

6. To direct and superintend the collection of all monies due to the state.

7. To examine and liquidate the claims of all persons against the state, in cases where provision for the payment thereof shall have been made by law ; and where no such provision, or an insufficient provision shall have been made, to examine the claim and report the facts, with his opinion thereon, to the legislature.

8. To require all persons who shall have received any monies belonging to the state, and shall not have accounted therefor, to settle their accounts.

9. To draw warrants on the treasurer for the payment of all monies directed by law to be paid out of the treasury ; but no warrant shall be drawn, unless authorised by law, and every warrant shall refer to the law under which it is drawn.<sup>26</sup>

May require accounts.

§ 2. The comptroller shall, from time to time, require all persons receiving monies, or securities, or having the disposition or management of any property of the state, of which an account is kept in his office, to render statements thereof to him ; and all such persons shall render such statements, at such time, and in such form as he shall require.

May require oath.

§ 3. The comptroller may require any person presenting to him an account for settlement, to be sworn before him, touching the said account ; and when so sworn, to answer orally, as to any facts relating to the justness of the said account.

Checks and receipts.

§ 4. He shall countersign and enter all checks drawn by the treasurer, and all receipts for money paid to the treasurer ; and no such receipts shall be evidence of payment, unless so countersigned.<sup>27</sup>

Dividends.

§ 5. He shall draw, in favor of the treasurer, on the president and directors of all banks, and other corporations, and joint stock companies, in which the state may own stock, for the dividends such stock, as the same may become due.<sup>28</sup>

Treasurer's accounts.

§ 6. He shall procure, from the books of the banks in which the treasurer shall make his deposits, monthly statements of the monies which shall be received and paid out of the same, on account of the treasurer.<sup>29</sup>

(26) 1 R. L. 474, § 1 ; Ib. 478, § 15. (27) 1 R. L. 477, § 9. (28) Ib. § 8. (29) Ib. 478, § 8.

§ 7. He shall keep an account between the state and the treasurer, and therein charge the treasurer with the balance in the treasury when he came into office, and with all monies received by him, and credit him with all warrants drawn on and paid by him.<sup>30</sup> ART. I.  
Ib.

§ 8. On the first Tuesday of every month, or oftener, if he deems it necessary, he shall carefully examine the accounts of the debts and credits in the bank books kept by the treasurer, and if he discovers any irregularity or deficiency therein, he shall, unless the same be rectified or explained to his satisfaction, forthwith report the same, in writing to the governor.<sup>30</sup> Ib.

§ 9. He shall, from time to time, examine the bonds, mortgages, and other securities on which money may be due, to the people of this state, and shall make enquiries relative to the sufficiency of the security for the payment of such monies; and in addition to the payment of interest, he shall require the payment of such part of the principal, as he may deem necessary for the security and interest of the state.<sup>31</sup> State securities.

§ 10. He shall transmit, annually, by mail, or otherwise to each auctioneer, in this state, who shall have notified him of his acceptance of the said office, a copy of such laws as may, from time to time, be passed relative to sales by auction; and he shall also make an annual report to the legislature, of the returns made by auctioneers.<sup>32</sup> Auctioneers.

§ 11. It shall be lawful for the comptroller, in the name and in behalf of the people of this state, from time to time, as the legal demands on the treasury may render it necessary, to make such temporary loans, at a rate of interest not exceeding six per cent. per annum, from corporations or individuals within this state, as may be necessary to discharge such demands; and he shall draw his warrant for the monies so borrowed, in favor of the treasurer, and charge him with the amount thereof.<sup>33</sup> Temporary loans.

§ 12. Such temporary loans shall be paid, as soon as there shall be sufficient money for that purpose in the treasury; and the comptroller shall report to the legislature, his proceedings in relation to every such loan made by him.<sup>33</sup>

§ 13. The comptroller shall have power to vote, either in person, or by proxy, in behalf of the state, at all elections of directors of banks, or other corporations, or joint stock companies, at which this state is entitled to vote.<sup>34</sup> To vote for state.

§ 14. He may, from time to time, cause to be published at the expense of this state, in one or more of the newspapers printed therein, May publish laws.

(30) 1 R. L. 474, § 1; 1 R. L. 473, § 3. (31) Laws of 1826, p. 354, § 6. (32) Laws of 1817, p. 222, § 15. (33) 1 R. L. 480, § 21; 1b. 481, § 27; Laws of 1815, p. 33, § 8; 1816, p. 22, § 25. (34) 1 R. L. 476, § 7.

**TITLE 3.** such laws of this state, or extracts therefrom, relating to the payment of monies due to this state, or the duties to be performed by the public officers thereof, as he may deem necessary.<sup>35</sup>

Payments through mistake.

§ 15. Whenever the comptroller shall be satisfied that monies have been paid into the treasury through mistake, he may draw his warrant therefor on the treasurer, in favor of the person who may have made such payment; but this provision shall not extend to payments on account of taxes, nor to payments on bonds and mortgages.<sup>36</sup>

State securities.

§ 16. All leases, mortgages, bonds, and other securities for money given to the people of this state, unless otherwise specially directed, shall be deposited and kept in the office of the comptroller.<sup>37</sup>

Ib.

§ 17. The certificates for stock of any kind, owned by the people of this state, shall be deposited, for safe keeping, in such banks as the comptroller may select.<sup>38</sup>

Deputy comptroller.

§ 18. There shall be a deputy comptroller, who may perform any of the duties of the comptroller, except the drawing of warrants on the treasury, the auditing of public accounts, and the duties of the comptroller as commissioner of the land-office, commissioner of the canal fund, and state canvasser.<sup>39</sup>

#### ARTICLE SECOND.

##### *Of Proceedings against Persons accountable for Public Monies.*

Sec. 19. Comptroller may issue a notification to any person receiving and not accounting for public monies.

20. The requirements of such notification.

21. To be served by sheriff of county in which person to whom it is directed, resides.

22. Return of it to comptroller's office, verified by the sheriff, evidence of the proceedings.

23. If party fails to account within the time mentioned in notification, copy of account to be given to attorney-general for prosecution.

24. Such copy of account certified by comptroller, sufficient evidence to support action for balance therein stated.

25. Defendant to pay costs, unless sued in a representative character.

26. When accounts are rendered, comptroller to examine, and if regular, to settle them.

27. When settled, comptroller to send copy to party.

28. Certified copy of account, sufficient evidence to support action for balance therein stated.

29. If, upon the trial, the defendant shall give any other evidence than was adduced to the comptroller, he shall pay costs.

30. Where a number of persons receive monies, comptroller may settle their accounts separately.

31. If any one of them be sued, he can not plead in abatement his connection with others.

32. Nothing in this Article to impair any other remedy that might be used independent of it.

Notification.

§ 19. Whenever the comptroller shall deem it expedient, he shall issue a notification, in the name of the people of this state, to any person who shall have received monies belonging to the state, for

(35) Laws of 1817, p. 300, § 12. (36) 1. R. L. 477, § 13. (37) Ib. § 10. (38) Ib. § 11. (39) 1. R. L. 480, § 23.

which he shall not have accounted. In case of the death of such person, the notification shall be directed to his legal representatives.<sup>40</sup> ART. 2

§ 20. Such notification shall require, that within a limited period, <sup>ib.</sup> not less than sixty nor more than ninety days from the date thereof, all the accounts and vouchers for the expenditure of such monies, shall be rendered to the comptroller.<sup>40</sup>

§ 21. Such notification shall be served by the sheriff of the county <sup>How served.</sup> where the person to whom the same shall be directed, shall reside, by delivering a copy thereof to him, or by leaving such copy at his usual place of abode, at least forty days before the time limited in the notification for rendering such accounts and vouchers.<sup>40</sup>

§ 22. The return of such notification to the comptroller's office, <sup>Evidence of service.</sup> with the certificate of the sheriff endorsed thereon, that the service has been made by delivering a copy of the notification to such person, or by leaving such copy at his usual place of abode, shall be conclusive evidence of the proceedings.<sup>40</sup>

§ 23. In case the party shall fail to render such accounts and vouchers, <sup>Proceedings if no account rendered.</sup> within the time limited in such notification, the comptroller shall state an account against him, charging interest at the rate of seven per cent. per annum, from the time the notification was served, and shall deliver a copy of such account to the attorney-general for prosecution.<sup>41</sup>

§ 24. Such copy, certified by the comptroller, shall be sufficient <sup>ib.</sup> evidence to support an action for the balance therein stated, subject to the right of the defendant to plead and give, in evidence, all such matters as shall be legal and proper for his defence or discharge.<sup>41</sup>

§ 25. The party so sued, shall be subject to the costs and charges <sup>ib.</sup> of suit, whether the ultimate decision be against him, or in his favor, unless sued as the representative of the original party.<sup>41</sup>

§ 26. Whenever accounts and vouchers are rendered within the <sup>Proceedings if account be rendered.</sup> time limited in a notification, or without any notification being issued, the comptroller shall proceed immediately to examine the same, and if such accounts and vouchers are regular and sufficient, shall liquidate and settle them; but if any of the necessary vouchers are wanting, or are, in his opinion, insufficient, he shall give notice to the party, and require him to supply such defect, within the period of not less than sixty, nor more than ninety days; and at the expiration of the time limited, the comptroller shall liquidate and settle such accounts, upon the vouchers and proofs which shall have been delivered to him.<sup>42</sup>

(40) 1 R. L. 478, § 15 & 16. (41) *Ib.* § 19. (42) *Ib.* § 17.

## TITLE 2

Proceedings when account is settled.

§ 27. When the comptroller shall have settled any such account, he shall transmit a copy of the account, as settled by him, to the party; and if any balance is certified to be due to the state, and the same shall not be paid to the treasurer within ninety days thereafter, the comptroller shall deliver a copy of such account to the attorney-general, for prosecution.<sup>43</sup>

10. § 28. Such copy, certified by the comptroller, shall be sufficient evidence to support an action for the balance therein stated, subject to the right of the defendant, to plead and give in evidence all such matters as shall be legal and proper for his defence or discharge.<sup>43</sup>

14. § 29. If any such defendant shall, upon the trial in any such action, give any evidence other than such as was produced to the comptroller, such defendant shall be subject to the costs and charges of such suit, whether the ultimate decision shall be against him, or in his favor.<sup>43</sup>

Joint ac- counts. § 30. Where any number of persons shall have received any monies for which they are accountable to the state, the comptroller may, in his discretion, settle the accounts of any one or more of them, separately.<sup>44</sup>

16. § 31. In such case, no person shall be allowed to plead in abatement, to any suit to be brought for any balance which shall be certified to be due from him or them, or to give in evidence upon the trial thereof, that any other person was concerned with him or them, in the receipt or expenditure of the said monies.<sup>44</sup>

Proviso. § 32. Nothing in this Article contained shall be construed to impair any legal remedy which might be used, if this Article was not in force, for the recovery of any debt due or to become due to the people of this state.<sup>45</sup>

## ARTICLE THIRD.

*Of the Settlement of Accounts for Lands purchased from, or mortgaged to, the People of this State.*

Sec. 33. Comptroller to open accounts against persons for a subdivision of lot purchased from or mortgaged to the state.

34. To apply prior payments to the credit of the part to which they were intended to be applied.

35. Where separate receipts were given by treasurer for payments made on such part, such receipts to be delivered to comptroller.

36. When a mortgage given to the state is paid, treasurer's receipt to be a sufficient discharge.

37. When part of a lot mortgaged to state is paid off, comptroller shall discharge the same.

38. If it be part of lot purchased from the state but not conveyed, comptroller to certify that it has been paid off.

39. Although no separate account is opened, comptroller to execute discharge when principal and interest on subdivision is paid.

Sec. 40. Persons claiming benefit of 33d and 36th sections, to produce map and survey.  
 41. Comptroller may assign mortgages given to state.

ART. 3.

Separate accounts.

§ 33. It shall be the duty of the comptroller, on application to him for that purpose, to open accounts in his office against any person, for any part or subdivision of any lot of land purchased from, or mortgaged to the state, for the proportionate part of the monies due to the state on any such part or subdivision, and thereafter to give credit for the payments on the several parts or subdivisions, as the persons making such payments may require.<sup>46</sup>

§ 34. The comptroller may pass any prior payments, to the credit of any part or subdivision, which shall appear by satisfactory proof, to have been originally intended to be paid on such part or subdivision, or by, or for the use of, the person claiming the credit, whether so expressed in the receipts or not; but no part of any such payments shall go to the reduction of the principal due on any such part or subdivision, unless the payments shall exceed the interest, calculated on the principal due, on such part or subdivision, to the day when such part or subdivision is to be paid off, or a new account to be opened therefor.<sup>47</sup>

Prior payments.

§ 35. Where it appears that separate receipts were given by the treasurer, for any payments which may be claimed to be credited to the account of any such part or subdivision, the receipts shall be delivered up to the comptroller, to be filed in his office.<sup>47</sup>

Receipts.

§ 36. Whenever any mortgage given to the people of this state shall be paid, the treasurer's receipt, countersigned by the comptroller, setting forth that the whole sum due on any such mortgage has been paid, shall be a sufficient discharge of such mortgage; and the secretary of state or county clerk, in whose office any such mortgage shall have been registered, shall enter a minute of such payment on the margin of the registry of such mortgage.<sup>48</sup>

Discharge of mortgages.

§ 37. When any part or subdivision, for which a separate account has been opened, shall have been fully paid, the comptroller shall, if the same be a part or subdivision of a lot mortgaged to the people of this state, discharge the same from such mortgage; and his certificate shall be sufficient to authorise the secretary of state or county clerk to enter a minute of such payment on the margin of the registry of such mortgage.<sup>49</sup>

Discharge of part of mortgage.

§ 38. If the part or subdivision so paid off, be a part or subdivision of a lot purchased from, but not granted by the state, then the comptroller shall certify that such part or subdivision has been so paid off.<sup>50</sup>

(46) 1 R. L. 476, § 4; Laws of 1815, p. 10, § 3. (47) 1 R. L. 476, § 5. (48) *Ib.* 475, § 2. (49) *Ib.* § 3 and 4.



## TITLE 4.

Discharge of part without separate account.

§ 39. The comptroller may also execute the like discharge or certificate, whenever the owner of any such part or subdivision, shall have paid into the treasury, the full proportion of principal and interest due thereon, though no separate account shall have been opened therefor.<sup>60</sup>

Duties of applicants.

§ 40. Every person claiming the benefit of the thirty-third and thirty-ninth sections of this Title, shall produce a map and return of survey of the whole lot, showing particularly the part or subdivision owned by him, and shall also produce satisfactory proof, that the residue of the lot is sufficient security for the sum remaining due thereon.<sup>60</sup>

Assignment of mortgages.

§ 41. The comptroller may, in his discretion, on the request in writing of the owner or owners of any land mortgaged to the people of this state, who shall then be in the actual possession of such land, assign such mortgage, together with the bond or other collateral instrument accompanying the same, to such person as shall be named by such owner or owners; on payment by such assignee, into the treasury, of the amount of principal and interest due on such mortgage.<sup>61</sup>

## TITLE IV.

### OF THE TREASURER.

- Sec. 1. Treasurer to receive monies paid into treasury.
2. To give bond in sum of fifty thousand dollars.
  3. Effect of bond.
  4. When bond of former treasurer to be given up.
  5. No monies to be paid by him, except on warrant of comptroller.
  6. Treasurer to report annually to legislature.
  7. Monies received by treasurer, where to be deposited.
  8. Monies deposited in Manhattan bank in New-York, subject to be drawn for.
  9. Disposition to be made of those monies.
  10. Treasurer to keep a bank book with such banks.
  11. Said banks to transmit monthly accounts to treasurer.
  12. Monies to be drawn by checks of treasurer, countersigned by comptroller.
  13. Treasurer to exhibit his bank book to comptroller monthly.
  14. Treasurer's accounts to be annually closed on the last day of November, and to be examined in December by a committee.
  15. Committee to make such examination, and report to the legislature.
  16. Committee to compare warrants of comptroller with the laws under which they were drawn.
  17. Legislature to supply vacancies in the committee; majority of members may perform duties.
  18. Each member to receive three dollars a day.

Duty.

§ 1. The treasurer shall receive all monies which shall, from time to time, be paid into the treasury of this state.

Bond.

§ 2. The treasurer shall, within ten days after he receives notice of his election, and before he enters upon the execution of his office, give a bond to the people of this state in the sum of fifty thousand

(50) 1. R. L. 475, § 3 & 4. (51) Laws of 1822, p. 198, § 1; 1825, p. 441, § 1.

dollars, with not less than four sufficient sureties, to be approved of <sup>TITLE 4.</sup> by the president of the senate and speaker of the house of assembly, conditioned that he will faithfully execute the duties of his office; which bond shall be deposited in the office of the secretary of state.<sup>52</sup>

§ 3. Such bond shall be deemed to extend to the faithful execution <sup>Bond.</sup> of the office of treasurer, by the person elected thereto, until a new appointment of treasurer be made, and a new bond given, under such appointment.<sup>53</sup>

§ 4. After such new appointment shall have been made, and such <sup>Ib.</sup> new bond given, upon the filing in the office of the secretary of state, of a certificate from the committee who shall have examined and settled the accounts of the treasurer of the preceding year, expressing that such accounts are regularly stated and balanced, and that the balance, if any there be, in monies, securities, and other effects, is actually in the treasury, or deposited as by law directed, the bond given by such treasurer and his sureties shall be discharged, and delivered up to be cancelled.<sup>53</sup>

§ 5. The treasurer shall pay all warrants drawn by the comptrol- <sup>Payments.</sup> ler on the treasury; and no monies shall be paid out of the treasury, except on the warrant of the comptroller.<sup>54</sup>

§ 6. The treasurer shall exhibit to the legislature, at its annual <sup>Annual re- port.</sup> meeting, an exact statement of the balance in the treasury to the credit of the people of this state; with a summary of the receipts and payments of the treasury during the preceding year.<sup>55</sup>

§ 7. The treasurer shall deposit all monies that shall come to his <sup>Deposit.</sup> hands on account of this state, except such as belong to the canal fund, within three days after receiving the same, in such bank or banks in the city of Albany, as in the opinion of the comptroller and treasurer, shall be secure, and pay the highest rate of interest to the state for such deposit.

§ 8. All monies directed by law to be deposited in the Manhattan <sup>Ib.</sup> bank, in the city of New-York, to the credit of the treasurer, shall remain in said bank, subject to be drawn for as the same may be required.

§ 9. The comptroller may transfer the deposits in the Manhattan <sup>Ib.</sup> bank from time to time to the bank or banks in the city of Albany, in which the monies belonging to this state shall be deposited, pursuant to the foregoing seventh section of this Title, so often as it will be for the interest of the state to transfer such deposits; but the comptroller may continue such deposits in the Manhattan bank, if the said bank shall pay a rate of interest to the state for such deposits, equal

(52) 1 R. L. 472, § 1. (53) Ib. § 6. (54) Ib. 477, § 9. (55) Ib. 473, § 5.

## TITLE 4

to that paid by the bank or banks in Albany, in which the state deposits shall be made.

Bank ac-  
counts.

§ 10. The monies so deposited shall be placed to the account of the treasurer; and he shall keep a bank book, in which shall be entered his account of deposits in, and monies drawn from, the banks in which such deposits shall be made.<sup>56</sup>

Monthly  
statements.

§ 11. The said banks shall respectively transmit to the comptroller, monthly statements of the monies which shall be received and paid by them on account of the treasury.<sup>57</sup>

Checks.

§ 12. The treasurer shall not draw any monies from such banks, unless by checks subscribed by him as treasurer, and countersigned by the comptroller; and no monies shall be paid by either of the said banks, on account of the treasury, except upon such checks.<sup>58</sup>

Bank book  
to be exhibit-  
ed.

§ 13. The treasurer shall exhibit his bank book to the comptroller for his inspection, on the first Tuesday in every month, and oftener, if required.<sup>59</sup>

Accounts  
when closed  
and exam-  
ined.

§ 14. The accounts of the treasury shall be annually closed on the last day of November, and shall be examined in the month of December, in each year, by a committee of not less than three nor more than five persons, to be appointed by concurrent resolutions of the two houses of the legislature, at the session previous to the month of December in each year.<sup>60</sup>

Duty of ex-  
amining com-  
mittee.

§ 15. Such committee shall examine the accounts and vouchers relating to all monies received into and paid out of the treasury, during the year ending on the last day of November preceding such examination; and shall certify and report to the legislature at its next session, the amount of monies received into the treasury during such year; the amount of monies paid out of it during the same period by virtue of warrants drawn on the treasury by the comptroller; the amount of monies received by the treasurer who shall be in office at the time of such examination, when he entered on the execution of the duties of his office; and the balance in the treasury on the last day of November preceding such examination.<sup>61</sup>

Id.

§ 16. Such committee shall also compare the warrants drawn by the comptroller on the treasury, during the year ending on the said last day of November preceding, with the several laws under which the same shall purport to have been drawn, and shall in like manner certify and report whether the comptroller had power to draw such warrants; and if any shall be found, which in their opinion he had no power to draw, they shall specify the same in their report, with their reasons for such opinion.

(56) 1 R. L. 472, § 2. (57) Laws of 1821, p. 162, § 2. (58) *Ib.*; 1 R. L. 472, § 2.—  
(59) Concurrent resolutions of March 31, 1788, & Feb'y 23, 1810; Laws of 1821, p. 162.

§ 17. The major part of the members of such committee may perform all the duties required by law of such committee.

TITLE 5.  
Ib.

§ 18. Each member of such committee shall receive a compensation of three dollars, for every day during which he shall be employed in the execution of the duties enjoined in the foregoing sections, to be paid out of the treasury.

Compensation.

## TITLE V.

### OF THE ATTORNEY-GENERAL.

- Sec. 1. To defend and prosecute all suits in which state is interested.  
 2. To receive all costs adjudged to state in any action, and to pay sheriff fees, &c.  
 3. When such fees cannot be collected by him of opposite party, the amount to be paid out of the treasury.  
 4. To prepare drafts for comptroller or surveyor-general.  
 5. When required by governor or a judge of supreme court, he shall attend courts of oyer and terminer.  
 6. When he so attends, to be reasonably paid out of treasury.  
 7. When to prosecute at request of governor, secretary of state, &c.  
 8. To attend trial of indictments for corrupting or attempting to corrupt members of legislature, &c.  
 9. To attend trial of indictments under laws against duelling.  
 10. Actions of ejectment to be prosecuted in supreme court. No such suit to be commenced for benefit of individual, without consent of attorney-general.  
 11. No such consent to be given, unless individual files security for costs.  
 12. Defendant in any ejectment in which people are interested, to recover costs.  
 13. Where one person is indebted to state on different mortgages, &c. but one suit to be commenced.  
 14. When separate suits are instituted, attorney-general to consolidate them if requested.  
 15. Debts, &c. received by attorney-general, to be paid into treasury.  
 16. Attorney-general not to act as attorney in private suits, unless the people are interested.  
 17. To keep register of suits, &c.

§ 1. It shall be the duty of the attorney-general to prosecute and defend all actions, in the event of which, the people of this state shall be interested.<sup>60</sup>

General duty.

§ 2. In all actions prosecuted or defended by him, in which costs are adjudged to the people of this state, or to any person in whose name such action shall be prosecuted or defended for their benefit, the attorney-general shall be entitled to such costs; and he shall pay the taxable fees of sheriffs, clerks, and witnesses, in all such actions.<sup>61</sup>

Costs and fees.

§ 3. Whenever any such taxable fees so paid by the attorney-general, can not be collected by him of the opposing party, the amount so paid shall be audited by the comptroller, and paid to the attorney-general out of the treasury; and if such fees are subsequently collected of the opposing party, they shall be paid into the treasury.<sup>61</sup>

When to be paid out of treasury.

§ 4. The attorney-general, whenever requested by the comptroller or the surveyor-general, shall prepare proper drafts for contracts, ob-

To prepare drafts.

petitions and other instruments which may be wanted for the use of the courts.

§ 5. Whenever required so to do, by the governor or by one of the justices of the supreme court, the attorney-general shall attend the courts of oyer and terminer and jail delivery, for the purpose of managing and conducting the suits and prosecutions of the people of this state.<sup>62</sup>

*Compensation*  
§ 6. Whenever the attorney-general, in consequence of such a requisition, shall attend a court of oyer and terminer, he shall be entitled to his expenses, and a reasonable compensation for his services. The amount shall be certified by the governor, and paid out of the treasury.

*To prosecute in certain cases*  
§ 7. It shall be the duty of the attorney-general, at the request of the governor, the secretary of state, the comptroller, the treasurer, or the surveyor-general, to prosecute every person who shall be charged by either of those officers with the commission of an indictable offence in violation of the laws, which such officer is specially required to execute, or in relation to matters connected with his department.

15. § 8. He shall cause all persons who may be indicted for corrupting or attempting to corrupt any member of the legislature, or any member elect of the senate or assembly, or any commissioner of the land-office, to be brought to trial; and to attend in person to the execution of the duties hereby required of him.<sup>63</sup>

15. § 9. He shall also cause all persons who may be indicted for any offence against the laws for the prevention of duelling, to be brought to trial; and shall attend in person to the discharge of the duties hereby required of him.<sup>64</sup>

*Ejectment brought by him.*  
§ 10. Every action of ejectment already commenced, or hereafter to be commenced, in the name of the people of this state, either by the attorney-general, or with his consent, shall and may be sustained and prosecuted to judgment and execution, in the supreme court of this state, in like manner as if such action had been commenced by an individual; but no such suit shall be commenced for the benefit of an individual, without the consent of the attorney-general.<sup>65</sup>

16. § 11. No such consent shall be given by the attorney-general, unless the individual desirous to prosecute such suit, shall give security to the defendant for the payment of the taxable costs, in case the suit shall be determined in favor of the defendant. The security shall be filed in the office of one of the clerks of the supreme court, and be approved of by the clerk in whose office it shall be filed.<sup>66</sup>

(62) 1 R. L. 337, § 7. (63) 2 R. L. 192, § 8. (64) 2 R. L. 198, § 7. (65) 1 R. L. 496, § 6.

§ 12. Whenever an action of ejectment shall be brought for the purpose of escheating lands, or otherwise, for the benefit of the people of this state, by the attorney-general, or by the direction of the commissioners of the land-office, and the nominal plaintiff shall fail therein for any cause, or the action shall be discontinued, the defendant shall be entitled to costs in the same manner, and to the same extent, as if such action had been brought by an individual; which costs, upon being duly taxed, shall be paid out of the treasury of this state, on the warrant of the comptroller.<sup>66</sup>

TITLE 6  
Th

§ 13. In all cases where debts are due to the people of this state, by several mortgages, contracts or obligations of the same nature, executed by the same person, only one suit shall be commenced by the attorney-general against the debtor, or his representatives, for the monies so due.<sup>67</sup>

When to bring but one suit.

§ 14. When the attorney-general shall institute separate actions, in behalf of the people of this state, against several persons, on one mortgage, covenant or agreement, or who claim under the same title, it shall be his duty, when the defendants shall request it, to consent to a consolidation of such actions; and in every such case, there shall be but one taxation of costs against the defendants.<sup>68</sup>

When to consolidate suits.

§ 15. All monies received by the attorney-general, for debts due or penalties forfeited to the people of this state, shall be paid by him, immediately after the receipt thereof, into the treasury.

To pay monies received.

§ 16. The attorney-general shall not act as attorney in any private suit, unless the people of this state shall be interested in the event thereof.<sup>69</sup>

Not to act in private suits.

§ 17. The attorney-general shall keep, in proper books to be provided for that purpose, at the expense of the state, a register of all actions and demands prosecuted or defended by him in behalf of the people of this state, and of all proceedings had in relation thereto; and shall deliver the same to his successor in office.

Register.

TITLE VI.

OF THE SURVEYOR-GENERAL.

- Sec. 1. To superintend surveys and sales of lands belonging to state.
2. To keep in his office a map of state.
3. When the bounds of a town cannot be delineated on his map, surveyor-general may order a special survey.
4. If supervisor of town neglect to make such survey, to be prosecuted by attorney-general.
5. In case of disputes between towns, as to bounds, surveyor-general to direct survey, and determine disputes.
6. Determination to be filed in secretary's office.
7. Surveyor-general to account with comptroller for monies received by him.

(66) 1 R. L. 496, § 6. (67) 1 R. L. 496, § 10. (68) Ib. § 11. (69) 1 R. L. 418, § 10.

**TITLE 7.**  
  
 General duties.

§ 1. It shall be the duty of the surveyor-general, to superintend the surveys and sales of lands belonging to the people of this state, in the mode required by law, and according to the directions of the commissioners of the land-office, where such directions shall have been given.

Map.

§ 2. He shall retain in his office, a map of this state, and shall, from time to time, delineate thereon the bounds of all towns or counties erected or altered by the legislature.

May require survey of towns.

§ 3. Whenever the bounds of a town already erected, or that may hereafter be erected, or altered, shall appear to be so described in the act erecting or altering the same, that they cannot be delineated by the surveyor-general, on the map of this state, without a survey specially made for that purpose, he shall direct the supervisor of such town, to cause such survey to be made, and to transmit the same to the surveyor-general's office.<sup>70</sup>

Id.

§ 4. In case of the refusal or neglect of any supervisor to perform the duties so enjoined on him, the surveyor-general shall give notice thereof to the attorney-general, to the end that he may prosecute such delinquent supervisor for the penalty imposed by law; which penalty, when recovered, shall be paid to the surveyor-general, and be by him applied to the making of a map of such town.<sup>71</sup>

Disputes town lines.

§ 5. Whenever a dispute shall arise between the officers of two or more towns, respecting the bounds of either of such towns, on the same being represented to the surveyor-general, he shall hear the allegations and proofs of the parties, and if necessary, shall direct a survey to be made, and shall determine such dispute.

Id.

§ 6. Such determination shall be filed in the office of the secretary of state, and shall be conclusive upon the subject, until the legislature shall, by law, otherwise direct.

To account.

§ 7. He shall, from time to time, account with the comptroller for all monies received by him, in behalf of the state, or from the treasury.<sup>72</sup>

## TITLE VII.

### OF THE STATE PRINTER.

Sec. 1. To print each session, 312 copies of the journals of each house.

2. Twelve copies to be delivered in sheets to clerks of senate and assembly, and residue to secretary of state.

3. To print also 250 copies of all documents ordered by either house to be printed.

4. All printing required by law for state and for the legislature, to be done by him.

5. He shall print a state paper in Albany, to be published daily, weekly or semi-weekly.

6. To publish in such paper certified copies of laws, when directed by secretary of state.

(70) 1 R. L. 488, § 2; 2 R. L. 136, § 21. (71) 1 R. L. 488, § 4. (72) 1 R. L. 488, § 6.

SEC. 7. Proof copy of every such law to be revised by secretary.

9. Laws so published may be read in evidence from paper, for three months after close of session.

9. To publish all notices required by law to be printed in state paper.

10. To print as many copies of laws as secretary shall direct.

11. To deliver them to secretary, bound in boards; and when.

12. Laws in volume printed by state printer, evidence.

13. Compensation of state printer.

TITLE 7.

§ 1. It shall be the duty of the state printer, to print, during each session of the legislature, three hundred and twelve copies of the journals of each house, as the same shall be, from time to time, delivered to him by the clerks of the senate and assembly.

§ 2. Twelve copies shall be delivered by him in sheets, as they are printed, to the clerks of the senate and assembly, for the use of their respective houses; and the remaining copies stitched, covered and bound in boards, with such indexes and appendixes printed by him, as shall be furnished to him for that purpose by the clerk of each house, shall be delivered by him, as soon as may be, after the close of each session, to the secretary of state.

§ 3. He shall also print, for the use of the members of the legislature, during its session, two hundred and fifty copies of every bill, report, memorial or other document, the printing of which shall be ordered by either house; and where an extra number of copies shall be ordered, he shall, in like manner print the same. The copies so printed shall be delivered by him, to the clerks of the respective houses.

§ 4. All printing required by law, or by any concurrent resolution of the senate and assembly, to be done for this state, or for either of the executive officers thereof, named in this Chapter, shall be executed by the state printer, unless otherwise specially provided by law.<sup>72</sup>

§ 5. He shall print, in the city of Albany, a newspaper, which shall be deemed the state paper, whenever such paper is or shall be referred to in the laws of this state; and such paper shall be published daily, or weekly, or semi-weekly, at his discretion.

§ 6. He shall publish forthwith in such paper, every certified copy of a law which shall be delivered to him for that purpose, by the secretary of state.

§ 7. A proof copy of every law so published, shall be furnished by him to the secretary of state, to be by him revised and corrected.

§ 8. Every law so published by him, may be read in evidence from the paper in which it shall be contained, in all courts of justice in this state, and in all proceedings before any officer, body, or



**TITLE 8.** board, in which it shall be thought necessary to refer thereto, until three months after the close of the session in which it became a law.

To publish notices.

§ 9. He shall also publish in such paper, all notices and advertisements delivered to him for that purpose, which by law are or shall be required to be printed in the state paper.

Laws in volumes.

§ 10. He shall print, in volumes of the octavo size, so many copies of the laws of each session, with the concurrent resolutions and indexes that shall be delivered to him for that purpose, by the secretary of state, as shall be annually directed by the secretary, who shall also revise and correct the proof sheets.<sup>74</sup>

lb.

§ 11. He shall deliver such copies, bound in boards, to the secretary of state, within one month after the close of the session, in which such laws and concurrent resolutions were passed.

Volumes evidence.

§ 12. All laws passed by the legislature, may be read in evidence from the volumes printed by the state printer, in all courts of justice in this state, and in all proceedings before any officer, body, or board, in which it shall be thought necessary to refer thereto.<sup>75</sup>

Compensation.

§ 13. The state printer shall continue to receive such compensation for printing, and other services performed by him for this state, as is now allowed to him; and his accounts for such services, shall be audited by the comptroller, and paid out of the treasury: in other cases, he shall receive such compensation, to be paid by the person requiring the service to be performed, as is or shall be allowed by law.<sup>76</sup>

## TITLE VIII.

### PROVISIONS RELATING TO TWO OR MORE OF THE EXECUTIVE OFFICERS.

- Sec. 1. Executive officers may administer oaths, and when.
2. Who may extinguish claims on lands sold by state
3. Comptroller, &c. may file certificates of invalid sales for quit-rents.
4. Comptroller thereupon to cancel the sale.
5. From what fund the monies are to be refunded.
6. Comptroller and attorney-general may release lands from judgments in favor of state.
7. Attorney-general, with consent of comptroller, may pay off incumbrances upon lands mortgaged to state.
8. When lands mortgaged to state are sold under a judgment obtained prior to mortgage, attorney-general may redeem.
9. Attorney-general or comptroller may acknowledge satisfaction of judgments in favor of state.
10. When lands are sold for debts due the state, the surplus after paying amount due, &c. to be paid to person entitled.
11. When on such sale, lands are bought for the benefit of the state, how debtor is to be credited; and when entitled to surplus money.

(74) 1 R. L. 494, § 12; laws of 1815, p. 290, § 6. (75) 1 R. L. 527, § 32. (76) 1 R. L. 484, § 12; act of 24th Oct. 1814, chap. 20, § 1; laws of 1818, p. 235; 1821, p. 59; 248, § 1.

- Sec. 12. Attorney-general to decide upon conflicting claims to such surplus.
13. Comptroller, with advice of governor, to dispose of bank stock owned by state.
14. What state officers to attend legislature, and report upon matters referred to them.
15. Secretary, comptroller and surveyor-general, to file quarterly accounts of receipts with treasurer.
16. How comptroller, &c. may seal papers.
17. Certified copies of papers in the office of comptroller and surveyor-general, evidence.
18. What duties deputy secretary and deputy comptroller to perform.
19. Offices of secretary, comptroller, treasurer, attorney-general and surveyor-general, to be kept in the public building in Albany.

TITLE 6.

§ 1. Whenever the governor, the secretary of state, the comptroller, the deputy comptroller, the treasurer, the attorney-general, and the surveyor-general, shall either of them legally require proof, by affidavit, in any matter belonging to his office, the officer requiring the proof may administer the necessary oath.<sup>77</sup>

Officers may administer certain oaths.

§ 2. The comptroller, the attorney-general, and the surveyor-general, or any two of them, with the consent and approbation of the governor, may, from time to time, extinguish all legal claims on lands sold under the authority of this state, or granted, for a valuable consideration, under its authority. The monies required for such purposes, shall be paid out of the treasury; and in no case shall the sum paid for the extinguishment of any such claim, exceed the principal monies, with interest thereon at the rate of six per cent. per annum, for which the lands, to which the claim relates, shall have been sold by the state.<sup>78</sup>

Extinguishment of claims.

§ 3. Whenever it shall appear to the comptroller, the attorney-general and the surveyor-general, or any two of them,<sup>79</sup> that any sales of lands, for arrears of quit-rents, have been improperly made, or that such sales cannot, for any reason, be effectual, it shall be the duty of the officers so acting, or of any two of them,<sup>79</sup> to subscribe a certificate of the fact, and of the reasons why, in their judgments, such sales were improper, or why they can not be effectual, and to file the same in the office of the comptroller.<sup>80</sup>

Sales for quit-rents, if invalid.

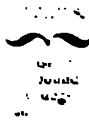
§ 4. Upon the filing of such certificate in his office, it shall be lawful for the comptroller to cancel such sales on his books, and to refund to the purchasers, their heirs or assigns, the amount of the consideration money paid, together with interest, at the rate of six per cent. per annum, from the time of such payment until such sale is vacated, not exceeding six years in the whole.<sup>80</sup>

May be cancelled.

§ 5. Whenever such re-payment shall be made, and whenever monies shall be refunded by the comptroller, for payments erroneously made into the treasury, on account of quit-rents, the one equal moiety thereof shall be paid out of the common school fund, and the other moiety out of the literature fund.<sup>80</sup>

Money how refunded.

(77) 1 R. L. 432 § 2; laws of 1824, p. 342, § 6. (78) 1 R. L. 294, § 7. (79) Laws of 1823, chap. 297, passed April, 21, 1823. (80) Laws of 1823, p. 327, § 2 & 3.



§ 6. The comptroller, with the consent of the attorney-general, if they shall be satisfied that the interests of the state will not be prejudiced, may release any portion of a real estate, subject to a judgment in favor of the people of this state, from the lien created by such judgment.<sup>61</sup>

When mort-  
gages, to see  
to be paid.

§ 7. Where the attorney-general shall ascertain that lands mortgaged to the people of this state, are incumbered by prior judgments or mortgages, he may, with the advice and consent of the comptroller, discharge such prior incumbrances, and take an assignment thereof to the people of this state; and all sums of money required for such purpose, shall be paid to him out of the treasury.<sup>62</sup>

Mortgaged  
lands, when  
to be redeem-  
ed.

§ 8. Whenever any lands which shall have been mortgaged to the people of this state, or purchased for the people on the foreclosure of a mortgage, shall be sold on execution, by virtue of a judgment recovered prior to such mortgage, the attorney-general, with the advice and consent of the comptroller, may redeem such lands, in the same manner as judgment creditors are authorized by law to redeem.<sup>63</sup>

Satisfaction  
of judgments  
to state.

§ 9. The attorney-general and comptroller, or either of them, may acknowledge satisfaction of any judgment in favor of the people of this state, when the same shall have been settled or discharged, either by payment, or by legislative provision; and the clerk of the court in which the judgment was docketed, shall, on filing a satisfaction-piece, acknowledged by them, or either of them, enter satisfaction of record.<sup>64</sup>

Surplus mon-  
ies on sale  
of land for  
monies due  
the state.

§ 10. Whenever any premises mortgaged to the people of this state, or any lot or tract of land, purchased in for the benefit of the state, or for which a certificate shall have been given to a former purchaser, shall be sold by the attorney-general, on a foreclosure by notice, or under a decree, or shall be resold by the surveyor-general for a greater sum than the amount due to the state, with the costs and expenses of such foreclosure or resale, the surplus monies received into the treasury, after a conveyance shall have been executed to the purchaser, shall be paid to the person legally entitled to such land, at the time of the said foreclosure, or at the time of the forfeiture of such original contract; but the comptroller shall not draw his warrant for such surplus money, unless upon satisfactory proof, by affidavit, or otherwise, of the legal right of the person in whose favor such warrant shall be applied for.<sup>65</sup>

If lands on  
such sale are  
bought for  
state, debtor  
to be credit-  
ed, &c.

§ 11. Whenever any lands or tenements shall have been purchased, or shall hereafter be purchased, by the attorney-general, in behalf of this state, on the foreclosure of any mortgage, and such lands or tenements shall be sold, or shall heretofore have been sold by the

(61) Laws of 1819, p. 317, § 8. (62) Laws of 1817, p. 6, § 3. (63) Laws of 1822, p. 125, § 3. (64) 1 R. L. 269, § 1; laws of 1822, p. 126, § 3. (65) Laws of 1834, p. 368, § 1.

Commissioners of the land-office, for a greater sum than the amount bid by the attorney-general on such sale, it shall be the duty of the comptroller to give credit to the mortgagor, on his bond, for the amount at which the said lands and tenements shall have been sold, or shall be sold, after deducting therefrom all the costs, charges and expenses of the sale; and if such lands and tenements have been sold, or shall be sold, for an amount greater than is due to the people of this state from the mortgagor, or if such mortgagor shall have paid into the treasury the amount due on his mortgage, after such purchase by the attorney-general, and if on the sale thereof by the commissioners of the land-office there shall be any excess over and above the amount due to this state, and the costs and expenses of such foreclosure, purchase and sale, it shall be the duty of the comptroller to refund to the mortgagor, or to the person entitled thereto, such excess.<sup>88</sup>

TITLE 8.

It shall be the duty of the comptroller, where interfering claims to surplus monies shall be made, to refer such claims to the attorney-general, whose decision as to the rights of the respective parties, shall be final and conclusive as to any claim against the

interfering claims to surplus.

The comptroller, by and with the advice of the governor, from time to time, dispose of any of the bank stock belonging to the treasury, and apply the proceeds to the credit of the treasury, or invest the same in other stocks, as may be judged most expedient.<sup>89</sup>

Bank stock.

It shall be the duty of the secretary of state, the comptroller, the treasurer, the attorney-general, and the surveyor-general, to attend the legislature during their session; and to report on all matters referred to them by the legislature, or by either house.

Officers to attend legislature.

The secretary of state, the comptroller, and the surveyor-general, shall, on the first days of January, April, July and October, of each year, file with the treasurer, an account in writing, of all fees respectively received, during the preceding quarter, and pay the amount thereof into the treasury.<sup>90</sup>

Quarterly account of fees.

In all conveyances and other writings, executed by the comptroller, under his seal of office, and upon all commissions issued, and certificates granted by the secretary of state or the adjutant-general, it shall be lawful to affix the proper seal, by making an impression thereon on the paper, which shall be as valid as if made on a seal of wax.<sup>90</sup>

Seals to official papers.

Copies of papers deposited or filed in the offices of the comptroller and surveyor-general, certified by the officer in whose office

Copies of papers when evidences.

Laws of 1824, p. 303, § 1. (87) *Ib.* § 2. (88) *Laws of 1818*, p. 306, § 15. (89) 2 *R. L.* 527, § 1; 530, § 7. (90) *Laws of 1822*, p. 295, § 7.

**TITLE 8.** they are deposited, shall, in all cases, be evidence equally and in like manner as the originals.

Deputy secretary and deputy comptroller.

§ 18. The deputy-secretary of state, and the deputy-comptroller, shall each of them perform all the duties attached by law to the office of his principal, during an absence of such principal from the state, or a vacancy in his office.<sup>91</sup>

Offices where kept.

§ 19. The offices of the secretary of state, comptroller, treasurer, attorney-general and surveyor-general, shall be kept in the state-hall, in the city of Albany.<sup>92</sup>

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## CHAP. IX.

### Of the Funds, Revenue, Expenditures and Property of the State ; and the Administration thereof.

**TITLE 1.**—Of the general fund, and the expenditures chargeable thereon.

**TITLE 2.**—Of the canal fund, and the administration thereof.

**TITLE 3.**—Of the literature fund.

**TITLE 4.**—Of the common school fund.

**TITLE 5.**—Of the public lands, and the superintendence and disposition thereof.

**TITLE 6.**—Of mortgages to the people of this state, and the foreclosure thereof.

**TITLE 7.**—Of the public buildings and erections.

**TITLE 8.**—Of the state library.

**TITLE 9.**—Of the canals.

**TITLE 10.**—Of the salt springs.

**TITLE 11.**—Of the interest of the state in mines.

**TITLE 12.**—Of escheats.

**TITLE 13.**—Of the recovery of forfeited estates.

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### TITLE I.

#### OF THE GENERAL FUND, AND THE EXPENDITURES CHARGEABLE THEREON.

- Sec. 1.** Designation and description of the general fund.  
**2.** Duties on pedlars to belong to general fund.  
**3.** Fees of secretary of state, comptroller and surveyor-general, part of general fund; tariff of those fees.  
**4.** Monies recovered for certain penalties to go to general fund.  
**5.** Salaries of officers of government.  
**6.** Salaries, when and how payable.  
**7.** Treasurer may retain his salary.  
**8 & 9.** Pay of lieutenant-governor.  
**10.** Sums allowed for clerk hire, and how and when paid.

Sec. 11. Furniture, stationary, &c. of certain officers, to be paid out of the treasury.

TITLE I.

12. Blanks, books, stationary, &c. and postage of adjutant-general and judge-advocate-general.

13. Rent and taxes of governor's house.

14. Incidental expenses of the governor.

15. Allowance to governor, to defray expenses of apprehending criminals.

16. Additional expenditures chargeable upon general fund.

17. Deficiency in common school fund, how supplied.

SECTION 1. The stocks, debts, and other property heretofore known General fund. as the general fund of this state, shall continue, together with the increase and revenue thereof, and the additions which may be made thereto, to be known and denominated as the "General Fund."

§ 2. All monies paid into the treasury for duties imposed upon Duties on pedlars. hawkers, pedlars, and petty chapmen, shall be deemed a part of the general fund.

§ 3. The fees of office which may be received by the secretary of Fees of certain officers. state, the comptroller, and the surveyor-general, shall be deemed a part of the general fund. The rate of such fees shall be as follows:

1. *Fees of the Secretary of State.*

For entering a caveat, twelve and a half cents.

Secretary's fees.

Searching the records in his office for any one year, twelve and a half cents, and for every other year in which such search is actually made on request, six cents.

Copies of records, ten cents for each folio containing one hundred words.

Recording, for every folio containing one hundred words, fifteen cents.

Engrossing exemplifications of records, for each folio containing one hundred words, fifteen cents.

Affixing the seal to exemplifications, one dollar.

Each certificate of the secretary, to be read in a court of justice, one dollar.

Every certificate of the secretary, for other purposes, nineteen cents.

For every patent for lands, for a single lot, the sum of one dollar; for each patent for more than one and less than four lots, the sum of one dollar and fifty cents; for each patent for more than three and less than nine lots, the sum of two dollars; for each patent for more than eight lots, the sum of three dollars; and for each patent for lands lying under water, five dollars.

For each license granted to a pedler, hawker, or petty chapman, two dollars.

For recording the depositions of resident aliens, fifty cents each; and for a certified copy of each deposition, fifty cents.<sup>1</sup>

(1) 2 R. L. 29; Ib. 226, § 2; Laws of 1826, p. 427, § 2.

## TITLE I.

Comptrol-  
ler's fees.

2. *Fees of the Comptroller.*

For opening a new account, for part of the consideration due on any lot or piece of land, or for a discharge for any such part, in cases in which no new account shall have been opened, two dollars.

For a deed of lands sold for taxes, containing the description of only one piece, fifty cents; and for every additional piece described in the same deed, ten cents.<sup>2</sup>

3. *Fees of the Surveyor-General.*

Surveyor ge-  
neral's fees.

For filing every paper, six cents.

For all original drafts, twenty-five cents.

For drawing all original papers, for each folio of one hundred words, ten cents; for recording, when requisite, for each folio, ten cents; and for copies of all papers on file, for each folio, ten cents.

For every search, ten cents.

For copies of maps, such sum as is usually charged for the like business.

For surveys to be performed, at the rate of three dollars for the surveyor, per day, exclusive of the reasonable expenses for the hire of men and horses, and for provisions.<sup>3</sup>

Certain pe-  
nalties.

§ 4. All monies recovered by any public officer, for penalties or forfeitures given by law to the people of this state, and not specially appropriated to any other fund, shall also be deemed a part of the general fund.

Charges on  
the general  
fund.  
Salaries.

§ 5. There shall be allowed to the several officers of government, and persons hereinafter mentioned, the following annual salaries, to be paid quarterly out of any monies in the treasury belonging to the general fund, and not otherwise specially appropriated by law, that is to say:

1. To the governor, four thousand dollars; and to his private secretary, six hundred dollars.

2. To the secretary of state, and as superintendent of common schools, one thousand five hundred dollars; and to the deputy-secretary, and as clerk of the commissioners of the land-office, one thousand five hundred dollars.

3. To the comptroller, two thousand five hundred dollars; and to his deputy, one thousand five hundred dollars.

4. To the treasurer, one thousand two hundred and fifty dollars; and to the treasurer's clerk, eight hundred dollars.

5. To the attorney-general, one thousand dollars.

6. To the surveyor-general, eight hundred dollars.

7. To the chancellor, and each of the justices of the supreme court, two thousand dollars.

8. To the chancellor's clerk, six hundred dollars.

(2) 1 R. L. 476, § 6; Laws of 1827, p. 4, § 5. (3) 1 R. L. 468, § 5.

each of the circuit judges, one thousand two hundred and TITLE 1.

state reporter, and chancery reporter, five hundred

ary-general, seven hundred dollars.

neral, eight hundred dollars.

te general, one hundred and fifty dollars.

.11, three hundred and fifty dollars.

acting canal commissioners, one thousand five

The salaries above specified shall be payable in equal quar- When pay-  
ble.  
payments at the treasury, on the first days of January, April,  
July and October, in every year, and shall be computed as becoming  
due to the several officers above named, in proportion to the times for  
which they shall hold their respective offices. <sup>5</sup>

§ 7. The sums which shall from time to time, become due to the lieut. Treasurer.  
treasurer, for his salary, may be retained by him in quarterly pay-  
ments, on the warrant of the comptroller. <sup>5</sup>

§ 8. There shall be allowed and paid to the lieutenant-governor, Allowance to  
lieut. gov.  
six dollars for every day's attendance as president of the senate, or  
president of the court for the trial of impeachments and the correc-  
tion of errors; or as commissioner of the canal fund, or land-office;  
but he shall not be entitled to compensation as such commissioner,  
for attending any meeting of the canal board, or the land-office, held  
during the session of the senate, or of the court for the trial of im-  
peachments and correction of errors. <sup>5</sup>

§ 9. The like compensation shall be allowed to the lieutenant-go- lieut.  
vernor, for every twenty miles travelling, in going to and returning  
from the place of meeting, in the discharge of such duties. <sup>5</sup>

§ 10. There shall be annually allowed to the several officers here- Clerk hire of  
certain offi-  
cers.  
in after named, such sum as shall be actually and necessarily ex-  
pended in their respective offices for clerk hire, not exceeding the  
sums herein after named, to be paid quarterly, in the same manner  
that the salaries of the respective officers are paid.

1. To the secretary of state, eight hundred dollars.
2. To the comptroller, not exceeding six thousand dollars, to be  
drawn for by him in case he finds it necessary; and he shall report  
to the legislature each year, the names of the clerks employed by him,  
and the amount paid to each.
3. To the treasurer, two hundred and fifty dollars.
4. To the attorney-general, six hundred dollars.

(4) Compiled from the statutes in force in September, 1827. (5) 1 R. L. 623, § 1. (6)  
Laws of 1828, p. 428, § 2.



## TITLE I.



5. To the surveyor-general, five hundred and fifty dollars.

6. To the adjutant-general, two hundred dollars.<sup>7</sup>

## Incidental expenses.

§ 11. The expenses of the necessary furniture, stationary, fire-wood, book-binding, printing, and postage, for the offices of the secretary of state, the comptroller, the treasurer, and the surveyor-general, shall be paid out of the treasury. An account of the items of such expenses shall be annexed to each warrant to be drawn therefor.<sup>7</sup>

D.

§ 12. The expenses of all necessary blanks, blank books and stationery, in the office of the adjutant-general, and of postage on official letters received by the adjutant-general and judge-advocate-general, shall be paid out of the treasury.<sup>7</sup>

D.

§ 13. The rent and taxes of the house occupied by the governor of this state, as a residence, shall be paid from time to time, as the same shall become due, out of the treasury.<sup>7</sup>

D.

§ 14. There shall be annually paid out of the treasury, to the governor, a sum not exceeding seven hundred and fifty dollars, to defray the incidental expenses of administering the government of this state; and he shall account with the comptroller for the expenditure thereof.<sup>7</sup>

D.

§ 15. There shall also be annually paid out of the treasury to the governor, a sum not exceeding two thousand dollars in the whole, to defray such expenses as may from time to time, in his opinion, be necessarily incurred in the apprehension of criminals, and he shall account to the comptroller for the expenditure thereof.<sup>8</sup>

## Other charges.

§ 16. In addition to the salaries and contingent expenses above mentioned, the following expenditures shall be chargeable on, and from time to time be paid out of, the general fund.

1. The compensation of the members and officers of the legislature, including the contingent expenses of both houses.

2. The compensation of the members of the court for the trial of impeachments and the correction of errors, including the contingent expenses of such court.

3. The monies required for the support of state prisons.

4. The annuities payable to Indians, and all expenses relating to Indian affairs.

5. The compensation of sheriffs for services not chargeable to the counties.

6. The expenses of all printing done for the state.

7. The compensation of brigade inspectors, and the expenses of the commissary's department, and all other expenses connected with the militia and the public defence.

(7) Compiled from statutes in force in Sept. 1827. (8) Laws of 1818, p. 241.

8. All monies directed by law to be paid out of the treasury, and not specially charged on any other fund. TITLE 2.

§ 17. Whenever the revenue of the common school fund, shall be insufficient to satisfy the annual appropriation of one hundred thousand dollars, the deficiency shall be supplied and paid from the general fund.<sup>9</sup>

## TITLE II.

### OF THE CANAL FUND, AND THE ADMINISTRATION THEREOF.

- Sec. 1. Designation and description of the canal fund.  
 2 & 3. Certain parts of the fund inviolably appropriated, &c. not to be diverted until payment of money borrowed to complete certain canals.  
 4. Fund, by whom superintended.  
 5. Duties of commissioners of canal fund.  
 6. Advances for repairs.  
 7 & 8. Surplus revenues of the fund, how to be invested.  
 9. Commissioners, when authorised to borrow money, to give notice.  
 10. Commissioners may indemnify persons in employ of the state, under canal laws, for judgments recovered against them, &c.  
 11. To inquire into circumstances before any such claim is allowed.  
 12. Commissioners may direct attorney-general or employ counsel, to defend or prosecute suits brought under canal laws.  
 13. Charges on the canal fund enumerated.

§ 1. The canal fund shall continue to consist of the following property: Canal fund.

1. Lands granted for the construction of the canals, by the state, by companies, or by individuals, and remaining unsold.
2. Debts due for such portions of said lands, as have heretofore been sold.
3. The tolls and commutation monies, imposed on and collected from such navigable communications belonging to the state, as now are or hereafter shall be made and completed.
4. Duties on the manufacture of all salt, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen.
5. Proceeds of all duties on goods sold at auction, excepting therefrom the annual sum of thirty-three thousand five hundred dollars, otherwise appropriated by the said act.
6. All monies received for the sale or use of the surplus waters of any canal belonging to this state; and,
7. All monies recovered in suits for penalties or damages, instituted under the canal laws.

§ 2. Such parts of the said fund as are designated in the tenth section of the seventh Article of the constitution of this state, are to be and remain inviolably appropriated and applied to the completion of the navigable communications specified in that section, and to the Certain funds pledged.

(9) Laws of 1826, p. 355, § 4.

TITLE 7.  
General duties.

§ 1. It shall be the duty of the surveyor-general, to superintend the surveys and sales of lands belonging to the people of this state, in the mode required by law, and according to the directions of the commissioners of the land-office, where such directions shall have been given.

Map.

§ 2. He shall retain in his office, a map of this state, and shall, from time to time, delineate thereon the bounds of all towns or counties erected or altered by the legislature.

May require survey of towns.

§ 3. Whenever the bounds of a town already erected, or that may hereafter be erected, or altered, shall appear to be so described in the act erecting or altering the same, that they cannot be delineated by the surveyor-general, on the map of this state, without a survey specially made for that purpose, he shall direct the supervisor of such town, to cause such survey to be made, and to transmit the same to the surveyor-general's office.<sup>70</sup>

ib.

§ 4. In case of the refusal or neglect of any supervisor to perform the duties so enjoined on him, the surveyor-general shall give notice thereof to the attorney-general, to the end that he may prosecute such delinquent supervisor for the penalty imposed by law; which penalty, when recovered, shall be paid to the surveyor-general, and be by him applied to the making of a map of such town.<sup>71</sup>

Disputes town lines.

§ 5. Whenever a dispute shall arise between the officers of two or more towns, respecting the bounds of either of such towns, on the same being represented to the surveyor-general, he shall hear the allegations and proofs of the parties, and if necessary, shall direct a survey to be made, and shall determine such dispute.

ib.

§ 6. Such determination shall be filed in the office of the secretary of state, and shall be conclusive upon the subject, until the legislature shall, by law, otherwise direct.

To account.

§ 7. He shall, from time to time, account with the comptroller for all monies received by him, in behalf of the state, or from the treasury.<sup>72</sup>

## TITLE VII.

### OF THE STATE PRINTER.

- Sec. 1. To print each session, 312 copies of the journals of each house.
2. Twelve copies to be delivered in sheets to clerks of senate and assembly, and one due to secretary of state.
3. To print also 250 copies of all documents ordered by either house to be printed.
4. All printing required by law for state and for the legislature, to be done by him.
5. He shall print a state paper in Albany, to be published daily, weekly or semi-weekly.
6. To publish in such paper certified copies of laws, when directed by secretary of state.

(70) 1 R. L. 483, § 3; 2 R. L. 136, § 31. (71) 1 R. L. 483, § 4. (72) 1 R. L. 483, § 6.

previous to any loan to be made by them, give notice that sealed proposals will be received to a given day, and until a certain hour of such day, to be named in the notice; which notice shall be published in two newspapers, in each of the cities of New-York and Albany, and continued for two weeks daily in the New-York papers, and at least twice a week in the Albany papers. And the proposals received by them shall not be opened, until the hour specified in such notice.<sup>15</sup>

TITLE 2.

§ 10. The commissioners of the canal fund shall have power to allow all claims for monies paid by the canal commissioners, or any one of them, or by an engineer or agent in their employment, or by any superintendent or toll collector, for judgments recovered against them or either of them, in any suit instituted for any act done by them, under the canal laws of this state, or for costs and expenses incurred in any such suit, or in any suit instituted by them or either of them, under such laws.<sup>16</sup>

Power to allow certain claims.

§ 11. The commissioners of the canal fund, before they shall allow any such claim, shall examine into the circumstances under which such costs shall have been incurred, or judgments recovered; and shall allow such claim, or such part thereof as they shall deem to be reasonable, if they shall be satisfied that such commissioners, or other officers making such claims, have been subjected to such costs, expenses or judgments, while acting in good faith in the discharge of their duty, under any law of this state.<sup>16</sup>

Proceedings.

§ 12. The commissioners of the canal fund shall have power, in their discretion, to direct the attorney-general, or to employ other counsel, to take all necessary steps in defending the interest of the state, in all suits and proceedings before the supreme court, or any other court, which may arise under the laws respecting the canals, or from the appraisement of damages thereon.<sup>17</sup>

To defend suits.

§ 13. All monies expended in the construction, reparation or improvement of the canals now authorised by law, or allowed or expended by the commissioners of the canal fund under this Title; or expended by the commissioners of the canal fund, the canal commissioners, or other officers or agents employed on such canals, pursuant to any law of this state; together with the compensation to such officers respectively, (including the salaries of the canal commissioners) shall be charged to the canal fund; and the comptroller shall also charge to the canal fund, from time to time, so much for the services of the clerks in his office, devoted to the accounts and revenues of the canal, as in his opinion shall be just and proper.<sup>18</sup>

Charges on the canal fund.

(15) Laws of 1821, p. 26, § 7. (16) Laws of 1827, p. 222, § 8. (17) *Ib.* § 9. (18) *Ib.* p. 412

**TITLE III.**

**OF THE LITERATURE FUND.**

§ 1. That portion of the funds of this state, heretofore known and designated as the "Literature Fund," shall continue to be known and distinguished by that name.<sup>19</sup>

§ 2. Whenever any money belonging to the capital of the literature fund, shall be paid into the treasury, the comptroller shall invest the same in such of the public stocks, or subscribe the same to such of the public loans of this state, as the regents of the university shall deem most advantageous.

**TITLE IV.**

**OF THE COMMON SCHOOL FUND.**

- SEC. 1. Designation and description of the fund.
2. Monies to be annually distributed as the revenue of the common school fund.
  3. When, how, and to whom such monies payable.
  4. Capital of the school fund, how to be invested.
  5. Duty of public agents to receive such investments, and upon what terms.
  6. Care of lands belonging to school fund, vested in commissioners of land-office.

Common school fund.

§ 1. The proceeds of all lands which belonged to the state on the first day of January, in the year one thousand eight hundred and twenty-three (except such parts thereof as may have been or may be reserved or appropriated to public use or ceded to the United States,) together with the fund denominated the common school fund, are to be and remain a perpetual fund, the interest of which is to be invariably appropriated and applied to the support of common schools throughout this state.<sup>20</sup>

Distribution of its revenue.

§ 2. There shall be annually distributed as the revenue of the common school fund, and according to the apportionment of the superintendent of common schools, then in force, the sum of one hundred thousand dollars, for the support and encouragement of common schools, to be denominated "School Monies"; and as often as such revenue shall be increased by the sum of ten thousand dollars, such increase shall be added to the sum to be distributed.<sup>21</sup>

When payable.

§ 3. The monies so to be distributed, shall be payable on the warrant of the comptroller, on the first day of February in every year, to the treasurers of the several counties, and to the chamberlain of the city of New-York.<sup>22</sup>

Capital how invested.

§ 4. Whenever there shall be in the treasury any money belonging to the capital of the school fund, it shall be the duty of the comp

(19) Laws of 1827, p. 237, § 3. (20) Constitution, art 7, § 10. (21) Laws of 1826, p. 350; 1819, p. 187, § 3. (22) Ib. 1824, p. 337, § 1.

troller to invest the same in such of the public stocks of this state, of the United States, or of the cities of New-York and Albany, as the comptroller and the superintendent of common schools shall deem most advantageous to the school fund ; or if they shall deem it more for the interest of such fund, the comptroller may invest such money in the next loan thereafter to be made by the commissioners of the canal fund, or by any other public agent, who may be authorised to borrow monies and issue certificates of stock, upon the credit of the state.<sup>23</sup>

ART. 1.

§ 5. It shall be the duty of such commissioners or public agent, to receive all investments of any portion of the capital of the school fund, at the same rate and on the most favorable terms to the school fund, upon which money shall be borrowed and stock issued at the time of such investment ; and certificates of stock shall be taken for such investments in the name of the comptroller, in trust for the school fund, which trust shall be specially expressed in every certificate.<sup>23</sup>

§ 6. The care and disposition of all lands belonging to the school fund, shall be vested in the commissioners of the land-office.

Care of the lands.

## TITLE V.

### OF THE PUBLIC LANDS, AND THE SUPERINTENDENCE AND DISPOSITION THEREOF.

ART. 1.—Of the general powers and duties of the commissioners of the land-office.

ART. 2.—Of the survey and appraisement of unappropriated lands, previous to sale.

ART. 3.—Of the sale of the unappropriated lands, and the execution of grants therefor.

ART. 4.—Of grants of land under water.

ART. 5.—Regulations concerning the protection of the public lands, and the payment of charges thereon.

ART. 6.—Of the duties of the commissioners of the land-office, in regard to lands belonging to the canal fund.

#### ARTICLE FIRST.

##### *Of the General Powers and Duties of the Commissioners of the Land-Office.*

Sec. 1. Commissioners to superintend the public lands, and to direct the granting thereof.

2. What number may execute the powers of the board.

3. Secretary of state to convene commissioners ; who to preside at meeting.

4. Deputy-secretary to be clerk ; his duty.

5. Commissioners to prescribe form of letters patent ; reservation of gold and silver mines.

6. Commissioners to make compensation for failure of title to lands purchased of state.

7. Commissioners may lease improved lands of state.

8. Expenses incurred by commissioners to be paid out of treasury.

§ 1. The commissioners of the land-office shall have the general care and superintendence of all lands belonging to this state, the superintendence whereof is not vested in some other officer or board. They shall also have power to direct the granting of the unappropriated lands.

To superintend public lands.

## TITLE 8.

Release of land bound by a judgment.

§ 6. The comptroller, with the consent of the attorney-general, if they shall be satisfied that the interests of the state will not be prejudiced, may release any portion of a real estate, subject to a judgment in favor of the people of this state, from the lien created by such judgment.<sup>81</sup>

Prior mortgages, when to be paid.

§ 7. Where the attorney-general shall ascertain that lands mortgaged to the people of this state, are incumbered by prior judgments or mortgages, he may, with the advice and consent of the comptroller, discharge such prior incumbrances, and take an assignment thereof to the people of this state; and all sums of money required for such purpose, shall be paid to him out of the treasury.<sup>82</sup>

Mortgaged lands, when to be redeemed.

§ 8. Whenever any lands which shall have been mortgaged to the people of this state, or purchased for the people on the foreclosure of a mortgage, shall be sold on execution, by virtue of a judgment recovered prior to such mortgage, the attorney-general, with the advice and consent of the comptroller, may redeem such lands, in the same manner as judgment creditors are authorised by law to redeem.<sup>83</sup>

Satisfaction of judgments to state.

§ 9. The attorney-general and comptroller, or either of them, may acknowledge satisfaction of any judgment in favor of the people of this state, when the same shall have been settled or discharged, either by payment, or by legislative provision; and the clerk of the court in which the judgment was docketed, shall, on filing a satisfaction-piece, acknowledged by them, or either of them, enter satisfaction of record.<sup>84</sup>

Surplus monies on sale of land for monies due the state.

§ 10. Whenever any premises mortgaged to the people of this state, or any lot or tract of land, purchased in for the benefit of the state, or for which a certificate shall have been given to a former purchaser, shall be sold by the attorney-general, on a foreclosure by notice, or under a decree, or shall be resold by the surveyor-general, for a greater sum than the amount due to the state, with the costs and expenses of such foreclosure or resale, the surplus monies received into the treasury, after a conveyance shall have been executed to the purchaser, shall be paid to the person legally entitled to such land, at the time of the said foreclosure, or at the time of the forfeiture of such original contract; but the comptroller shall not draw his warrant for such surplus money, unless upon satisfactory proof, by affidavit, or otherwise, of the legal right of the person in whose favor such warrant shall be applied for.<sup>85</sup>

If lands on such sale are bought for state, debtor to be credited, &c.

§ 11. Whenever any lands or tenements shall have been purchased, or shall hereafter be purchased, by the attorney-general, in behalf of this state, on the foreclosure of any mortgage, and such lands or tenements shall be sold, or shall heretofore have been sold by the

(81) Laws of 1819, p. 317, § 6. (82) Laws of 1817, p. 6, § 3. (83) Laws of 1822, p. 124, § 2. (84) 1 R. L. 269, § 1; laws of 1822, p. 126, § 3. (85) Laws of 1834, p. 308, § 1.

ARTICLE SECOND.

ART. 2

*Of the Survey and Appraisement of Unappropriated Lands,  
previous to sale.*

Sec. 9. Commissioners of land-office to direct surveys of unappropriated lands.

10. Estimate of expenses to be certified to the comptroller.
11. And to be paid by him.
12. Surveyors to appraise each lot.
13. Appraisal, returns, &c. to be delivered to surveyor-general, and copy to be filed in secretary's office.
14. Surveyors to take an oath.
15. If they make false return, guilty of perjury.
16. Surveyor-general to make maps of each tract surveyed. Where to be deposited and copy where filed.
17. Maps to be open to public inspection.

§ 9. The commissioners of the land-office may, from time to time, as often as they shall judge it to be for the interest of the state, direct the surveyor-general to cause actual surveys to be made of such parts of the unappropriated lands of this state as they shall direct.<sup>30</sup>

§ 10. Whenever it shall become the duty of the surveyor-general to make a survey and sale of public lands, he shall obtain, from the commissioners of the land-office, a certificate, to be directed to the comptroller, containing their estimate of the expenses of such survey or sale.<sup>31</sup>

§ 11. He shall deliver such certificate to the comptroller; and the sum at which such expenses are estimated therein, shall be paid to him out of the treasury.<sup>31</sup>

§ 12. It shall be the duty of the surveyors who shall be appointed by the surveyor-general to survey any unappropriated lands, in order to a sale thereof, to appraise the value of each lot, exclusive of the improvements thereon, exceeding the value of twenty-five dollars.<sup>32</sup>

§ 13. They shall deliver such appraisement, together with the returns of such surveys, and maps of the lots so surveyed, and a field-book, containing an account of the soil, timber, and local advantages of each lot, to the surveyor-general; who shall cause a copy to be filed in the secretary's office.<sup>32</sup>

14. Every surveyor who shall be employed by the surveyor-general, to survey any unappropriated lands, and to appraise the value thereof, shall, before he proceeds to make such survey and appraisement, take and subscribe the oath prescribed by the constitution, and shall file the said oath, certified by the person before whom the same shall be taken, in the surveyor-general's office.<sup>33</sup>

§ 15. In case any such surveyor shall wilfully and knowingly make a false return of the survey by him made, or shall wilfully and knowingly return an appraisal of the lands so surveyed, to the sur-

(30) 1 R. L. 265, § 11. (31) *Ib.* § 19. (32) *Ib.* § 13. (33) *Ib.* § 23.



TITLE 5. ted lands of the state, according to the directions from  
be prescribed by law.<sup>24</sup>

Majority to act. § 2. All the powers now vested or hereafter  
commissioners, may be executed by a majority  
three of them, if the surveyor-general be on

How convened. § 3. The secretary of state shall con-  
often as may be necessary for the trans-  
meeting, the lieutenant-governor, if  
absent, the members present shall

Their clerk, his duties. § 4. The deputy-secretary of  
sioners, and shall enter the mi-  
be provided for the purpose  
office, in proper order, wit-  
presented to the board.<sup>25</sup>

Patents. § 5. All letters pa-  
form as the commis-  
tion and reservati-  
mines.<sup>26</sup>

To refund monies in certain cases. § 6. Whe-  
ed under it-  
on account  
thereto.  
ment  
th

[See § 2, Title 8, ch. 8, p. 185.]

To lease vain land

- 24. To establish rules to prevent frauds under two last sections.
- 25. Lots not sold at public sale by surveyor-general, may be sold to first applicant.
- 26. Duty of applicant, number of lots which he may take.
- 27. If no application for unsold lots, minimum price may be reduced.
- 28. Occupant of certain lands, if sold, to recover value of improvements; value to be ascertained.
- 29. When surveyor-general to appoint appraisers of improvements.
- 30. What deductions appraisers to make.
- 31. Expense of appraisal how paid.
- 32. Patent not to issue until value of improvements paid.
- 33. The five preceding sections not to extend to certain lands.
- 34. Person entitled to grant, dying before it issues, his heirs or devisees entitled on complying with conditions, &c.
- 35. In case consideration is not paid, heirs or devisees to execute security thereon.
- 36. If heirs, &c. are not of full age, comptroller and treasurer to open account for them.
- 37. If account be paid, land to be granted; if not, to be sold at auction.
- 38. Persons entitled to a grant, to apply within twelve months.
- 39. If not so applied for, land to be sold.
- 40. If default be made in payment of obligation given for lands, commissioners under land to be resold, and previous payments forfeited.
- 41. In what cases surveyor-general to bid in for the state, lands sold for the payment of monies due.
- 42. To sell lands so purchased, to applicant, giving preference to last owner.
- 43. If such lands are newly appraised, to be sold at appraised value.

**TITLE 5.** Surveyor-general, variant from the true value thereof, or without having personally surveyed and explored the same, he shall be deemed guilty of wilful and corrupt perjury.<sup>34</sup>

Maps to be made, &c.

§ 16. The surveyor-general shall make, or cause to be made, a map of each of the tracts so directed to be surveyed, distinguishing on such maps the town and county in which the lots are situate; which maps shall be deposited in his office, and a copy thereof, to be furnished by him, shall also be deposited in the office of the secretary of state.<sup>35</sup>

To be public.

§ 17. Such maps and copies shall be open to the inspection of every person, during the stated hours of doing business in the said offices, until the lands described thereon shall be sold.<sup>35</sup>

### ARTICLE THIRD.

#### *Of the Sale of the Unappropriated Lands, and the Execution of Grants therefor.*

- Sec. 18.** Commissioners of land-office may direct sales of unappropriated lands.
19. To fix the minimum price, and to designate newspapers for the publication of notices.
  20. To prescribe the amount of purchase money to be paid down.
  21. All sales by surveyor-general, to be in the city of Albany, unless otherwise directed by land-office.
  22. To give eight weeks notice of time, &c. of sale.
  23. Conditions of sale.
  24. Penalty on purchaser for refusing to comply with conditions of sale.
  25. If conditions complied with, surveyor-general to give purchaser certificate.
  26. Rights acquired by purchaser, under a certificate.
  27. Purchasers when entitled to letters patent, and to have their obligations cancelled.
  28. If certificate is lost or withheld, patent may be issued on proof of the fact.
  29. When persons die, having pre-emptive right to lands, commissioners to decide claims thereto.
  30. To establish rules to prevent frauds under two last sections.
  31. Lots not sold at public sale by surveyor-general, may be sold to first applicant.
  32. Duty of applicant, number of lots which he may take.
  33. If no application for unsold lots, minimum price may be reduced.
  34. Occupant of certain lands, if sold, to recover value of improvements; value how to be ascertained.
  35. When surveyor-general to appoint appraisers of improvements.
  36. What deductions appraisers to make.
  37. Expense of appraisal how paid.
  38. Patent not to issue until value of improvements paid.
  39. The five preceding sections not to extend to certain lands.
  40. Person entitled to grant, dying before it issues, his heirs or devisees entitled to it, on complying with conditions, &c.
  41. In case consideration is not paid, heirs or devisees to execute security therefor.
  42. If heirs, &c. are not of full age, comptroller and treasurer to open account with them.
  43. If account be paid, land to be granted; if not, to be sold at auction.
  44. Persons entitled to a grant, to apply within twelve months.
  45. If not so applied for, land to be sold.
  46. If default be made in payment of obligation given for lands, commissioners may order land to be resold, and previous payments forfeited.
  47. In what cases surveyor-general to bid in for the state, lands sold for the purchase monies due.
  48. To sell lands so purchased, to applicant, giving preference to last owner.
  49. If such lands are newly appraised, to be sold at appraised value.



Sec. 50. Lands purchased for the state by the attorney-general, to be sold by surveyor-general under directions of commissioners, &c.

ART. 2.

51. Also, to sell lands purchased for the state by commissioners of loans, under the act of 1808.
52. If such re-sale be ordered, notice to be given to occupant to remove. Duty of district attorney.
53. Proceedings for the removal of occupant; duty and powers of sheriff.
54. If person removed return without permission, how dealt with, and penalty.
55. Fees of judge and sheriff.
56. Upon a re-sale of lands, bonds to be delivered up and cancelled.
57. If lands bought for the state, on a re-sale, commissioners to direct terms of sale.
58. When commissioners to fix time for performance of conditions of a grant.
59. Notice of time so fixed, how given.
60. If conditions not performed within time so limited, grant forfeited.
- 61 & 62. Terms on which lands in 4th senate district may be sold.
63. Liabilities and duties of purchasers thereof.
64. Duties of assessors in regard to such lands.
65. Attorney-general, when to cause partition to be made of lands held by the state in joint tenancy, &c.
66. Lands belonging to the school fund, and certain other lands, to be deemed unappropriated lands.


§ 18. The commissioners of the land-office may from time to time, direct the surveyor-general to sell the unappropriated lands belonging to this state, and not otherwise directed to be disposed of, at public auction, in such parcels as they shall deem most for the interest of the state, and for the promotion of the settlement thereof; but not more than twenty thousand acres shall be sold at any one auction, and each lot shall be separately exposed to sale.<sup>26</sup>

§ 19. The commissioners shall, previous to every sale, furnish the surveyor-general with a statement of the price of each lot, below which it shall not be sold; and they shall also designate the newspapers in which the surveyor-general shall cause the notices of sale to be published; but they shall in all cases designate at least one newspaper published in the county where the lands to be sold are situated; or if there be no newspaper therein, then they shall designate at least one newspaper that shall be published nearest to such lands.<sup>27</sup>

§ 20. The commissioners shall also, previous to every sale, prescribe the amount of purchase money to be paid at the time of sale to the surveyor-general. In fixing this amount, they shall have reference to the value and situation of the lands and the timber thereon, and it shall in no case be less than twenty-five per cent. nor more than seventy-five per cent. of the purchase money.<sup>28</sup>

§ 21. All public sales of lands belonging to the people of this state, to be made by the surveyor-general, shall be held by him in the city of Albany, unless he shall be otherwise directed by the commissioners of the land-office.<sup>29</sup>

(26) 1 R. L. 295, § 12. (37) *Ib.* § 13; laws of 1826, p. 327, § 5. (38) Laws of 1826, p. 34, § 4. (39) 1 R. L. § 22.

**TITLE 5.**  
  
**Notice.** § 22. He shall give eight weeks previous notice of the time, place, and conditions of such sale, to be published in such newspapers as the said commissioners shall have selected and prescribed.<sup>40</sup>

**Conditions.** § 23. Within forty-eight hours after each sale, the purchaser of each tract shall pay to the surveyor-general the first payment required thereon, and execute a penal obligation conditioned for the payment of the residue of the purchase money to the people of the state of New-York, in six equal annual payments, with interest at the rate of six per cent.<sup>41</sup>

**Penalty for a breach of them.** § 24. If any purchaser shall refuse or neglect to make such payment, and to deliver such obligation to the surveyor-general as aforesaid, he shall, for every such refusal or neglect, forfeit the sum of fifty dollars for each lot so by him purchased, to be recovered with costs of suit by the surveyor-general.<sup>41</sup>

**Certificate of sale.** § 25. The surveyor-general, on the delivery to him of such obligation, and on the receipt of such payment, shall give such purchaser a certificate containing the name of the purchaser, a description of the land purchased, the sum paid, and the sum remaining due thereon; and shall deliver such obligation to the comptroller.<sup>41</sup>

**Rights acquired under it.** § 26. The certificate of sale given by the surveyor-general, for any lands that have been or may be sold by him, shall not be deemed to confer upon the purchaser, any right to cut down or destroy any kind of wood or timber standing or growing upon such land, unless such right shall be expressly granted by the certificate; but where a right of entering into the possession of any land so sold, shall be vested in the purchaser by the certificate, nothing herein contained shall prevent such purchaser from actually using and applying any wood or timber on the land, to the erection of fences or buildings thereon; nor from using the necessary firewood growing thereon, in his family; nor from actually and fairly improving any such land for the purposes of cultivation.<sup>42</sup>

**Patents when to issue.** § 27. Whenever any purchaser at a sale made by the surveyor-general, or the representatives or assigns of such purchaser, shall produce to the commissioners, the surveyor-general's certificate, with a receipt of the treasurer endorsed thereon, for the whole of the purchase money due thereon, it shall be the duty of the comptroller to cancel the obligation executed by such purchaser on the sale, and letters patent for the lands described in the certificate shall be issued.<sup>43</sup>

**Upon certificate being lost, &c.** § 28. Whenever any such certificate shall be lost or wrongfully withheld by any person from the owner thereof, the commissioners may receive evidence of such loss or wrongful detention; and on sat-

(40) Laws of 1826, p. 264, § 15; Laws of 1826, p. 327, § 5. (41) 1 R. L. 296, § 16 & 18.  
 (42) Laws of 1826, p. 210, § 4. (43) 1 R. L. 296, § 16.

isfactory proof of the fact, may issue a patent to such person as shall appear to them to be the proprietor of the land described in the original certificate.<sup>44</sup> ART. 3.

§ 29. Whenever any person shall die, possessed of lands to which he had, under any law of this state, a pre-emptive right, the commissioners may hear and determine the claims of all persons who may claim to be entitled, in whole or in part, to such pre-emptive right; and on such determination, the person or persons to whom any such pre-emptive right, in whole or in part, shall be awarded, shall be entitled to all the rights and privileges, and be subject to all the restrictions and liabilities, of other purchasers of unappropriated lands.<sup>44</sup> Upon death of purchaser.

§ 30. The commissioners shall have power to establish such rules, as in their opinion may be proper, to prevent fraudulent applications on false suggestions, under the two preceding sections.<sup>44</sup> Rules to prevent fraud.

§ 31. Whenever the surveyor-general shall have exposed to sale, any lots of the unappropriated lands of this state, pursuant to law, and any of such lots shall remain unsold, the commissioners may direct the surveyor-general to issue certificates for the sale thereof, to such persons respectively, as shall thereafter, first make application for any of the said lots, at the minimum price affixed to them.<sup>45</sup> Lots when to be sold at private sale.

§ 32. No person shall be considered as an applicant, unless he shall have made the first payment, and executed the obligation required by law; and no one applicant shall be entitled to a grant of more than two lots, except so far as it respects lands in the counties of Saratoga, Washington, Warren, Schenectady, Montgomery, Essex, Clinton and Franklin.<sup>46</sup> Conditions.

§ 33. Whenever any lot of the unappropriated lands shall have been put up for sale, by the surveyor-general, and no bid shall be received for the same, and no application be made for the purchase thereof, within a reasonable time, the commissioners may, if in their opinion the minimum price was fixed too high, lessen the same, and direct the surveyor-general again to advertise, and proceed with the sale thereof.<sup>47</sup> If not sold, price may be reduced.

§ 34. If any tract of land directed to be sold by the commissioners, was occupied on the seventeenth day of February, one thousand eight hundred and nine, and improved to the value of twenty-five dollars, or exceeding that value, the occupant of such improvement shall be entitled to recover from the purchaser, the value thereof, at the time of the sale, to be ascertained by appraisers, one of whom shall be nominated by such occupant, another by the purchaser, and a third, in case of their disagreement, by the other two.<sup>48</sup> Improvements to be paid for in certain cases, on appraisal.

(44) Laws of 1814, p. 21, § 2 and 3. (45) 1 R. L. 297, § 21. (46) Laws of 1815, p. 208.  
 55. (47) Laws of 1819, p. 300, § 2. (48) 1 R. L. 298, § 17.

**TITLE 4.**  
Surv'r-gen. to appoint appraisers in certain cases. § 35. If either, such occupant, or purchaser, shall refuse or neglect, on the application of the other, to make such nomination, and such neglect or refusal shall be proved to the satisfaction of the surveyor-general, he shall appoint appraisers, to ascertain the value of such improvement.<sup>49</sup>

Duty of appraisers. § 36. It shall be the duty of the appraisers, in making their appraisal, to deduct from the appraised value of such improvements, a reasonable allowance for the use of the lands by the occupant, and also for the deterioration of the value thereof, by his cutting and carrying away timber therefrom, during such occupancy, or causing it to be done.<sup>50</sup>

Expense. § 37. The purchaser and occupant shall each, pay one half of the expense of every such appraisal.<sup>51</sup>

Proof of payment before letters issue. § 38. The commissioners shall not issue letters patent for any such tracts of land, until satisfactory proof be produced, that the purchaser has, in the manner prescribed in this Title, or otherwise, satisfied the occupant of such tract, for his improvements thereon.<sup>52</sup>

Qualification of the five preceding sections. § 39. The preceding five sections shall not extend to any lands that shall have been previously disposed of by the state, or to which the state shall have acquired title by escheat or confiscation, or by purchase at any sale under a mortgage, judgment, or other security, or by conveyance from any person indebted to it.<sup>53</sup>

Persons entitled to grant, dying, heirs, &c. to take. § 40. Whenever any person to whom a grant of land shall have been ordered, pursuant to any law of this state, shall die before the issuing of such grant, the heirs or devisees of every such person, shall be entitled to such grant, upon their complying with the conditions, upon which the grant was to have been made.<sup>54</sup>

Duty of heirs, &c. if of age. § 41. In case any monies shall remain due to the state, on account of the consideration of such lands, and the execution of the securities for the payment of such consideration, or any part of it, shall appear to be one of the conditions required of the grantee, the heirs and devisees, if of age, shall execute them.<sup>55</sup>

Proceedings when not of age. § 42. If such heirs or devisees are not of full age, the treasurer and comptroller shall open an account with them for such consideration monies, in their respective offices; and the treasurer shall receive payments and give receipts on such accounts.<sup>56</sup>

When land to be granted; when to be sold. § 43. When such account shall be paid in full, the grant shall issue to such heirs or devisees; and in case of default in the payment of the monies due on such account, according to the condition of the

(49) 1 R. L. 298, § 17. (50) Laws of 1817, p. 101, § 4. (51) Laws of 1828, chapter 52, § 5, passed April 21, 1828. (52) Laws of 1815, p. 201, § 2.

sold, in the manner directed for the sale of unappropriated

If any one payment, stipulated in any obligation received by the surveyor-general, upon any sale of unappropriated lands, shall remain one year after the same ought to have been made, the commissioners of the land-office may direct the comptroller to put such land in suit, or may direct the surveyor-general to sell again the land, the payment of which, such obligation shall have been given in case of such sale, all previous payments made on account thereof, shall be forfeited to the people of this state.<sup>55</sup> Land when to be resold.

Whenever the surveyor-general shall sell any lot of land, for which base monies due thereon, and the sum due for principal and interest shall not be bid therefor, he shall purchase the same for the amount so due, with the costs of sale.<sup>56</sup> When to be bid in for the state.

The surveyor-general may sell such lot or lots of land, so long as held by him for the state, to any person who may apply to purchase the same; always giving a preference to the last owner, provided he shall apply to purchase the same within three months after the expiration of the term at which the same was purchased for the state, on the same terms and conditions, as he is authorised to sell the unappropriated lands of the state.<sup>56</sup> How to be resold.

If the commissioners of the land-office shall have directed a sale or appraisal of such lands, the surveyor-general may sell the same, in the manner authorised in the preceding section, for the prices at which the lots may be respectively appraised.<sup>56</sup> When to be sold at appraisal.

## TITLE 5.

ib.

§ 51. It shall also be his duty to sell, under the like directions of the commissioners of the land-office, and on the terms and conditions prescribed by them, all or any of the lands purchased by the commissioners of loans, for the benefit of the people of this state, according to the provisions of "an act authorising a loan of monies to the citizens of this state," passed April 11th, 1808.<sup>58</sup>

Occupant's of lands resold to be removed.

§ 52. Whenever the commissioners direct a re-sale, pursuant to the foregoing provisions, they shall cause notice to be given to every occupant of such land to remove therefrom; and in case of his refusal or neglect to comply with such notice, they shall direct the district attorney of the county in which such lands may be situated, to enter a complaint against such occupant, before one of the judges of the court of common pleas of the county.<sup>59</sup>

Proceedings.

§ 53. The judge shall proceed to examine into the matter; and on proof, by the production of a certificate from the clerk of the commissioners of the land-office, that a re-sale of such land has been duly ordered for default of payment, he shall issue his warrant to the sheriff of the county, commanding him, within ten days after the receipt thereof, to remove such occupant from such lands; and it shall be the duty of the sheriff, within the time specified in the warrant, to remove such person, and for that purpose, he shall have the same powers as in the execution of criminal process.<sup>60</sup>

Penalty for returning after removal.

§ 54. The sheriff shall retain such warrant in his hands, and if any person so removed shall return, to settle or reside upon such lands, without the consent of the surveyor-general, such person shall be forthwith removed by the sheriff, pursuant to the warrant; and shall also be deemed guilty of a misdemeanor, and be liable, on conviction, to be fined or imprisoned: the fine not to exceed one hundred dollars, and the imprisonment not to exceed thirty days.<sup>60</sup>

Fees.

§ 55. Every judge who may issue a warrant under this Title, for issuing such warrant and taking the preliminary proof, shall be entitled to receive a fee of one dollar in each case; and the sheriff, for executing every such warrant, shall be allowed such compensation as the comptroller shall certify to be reasonable; which fees shall be paid out of the treasury.<sup>60</sup>

Duty of commissioners.

§ 56. Whenever the commissioners shall cause such lands to be sold, and such previous payments to be forfeited, they may deliver up and cancel the obligations, given for the lots so ordered to be sold, on the certificates of sale being surrendered.<sup>61</sup>

ib.

§ 57. If, on any such sale, the surveyor-general shall become the purchaser, in behalf of the state, the commissioners of the land-office

(58) Laws of 1822, p. 122, § 3. (59) Laws of 1826, p. 209, § 2. (60) *Id.*; Laws of 1808, p. 188, § 1 and 2. (61) Laws of 1821, p. 173.



shall direct, whether the land purchased, shall be offered for sale by the surveyor-general, at the price for which the same was purchased by him, or whether a new appraisement shall be made thereof, under his direction.<sup>62</sup> ART. 3.

§ 58. Whenever grants of land shall have been directed to be made by the commissioners of the land-office, upon the performance of any conditions by the grantees, and no time for the performance of such conditions has been prescribed by law, or by the terms of any agreement on the part of the state, the commissioners may fix a reasonable time for the performance of such conditions, not less than one year.<sup>63</sup> Time for performing conditions of grant, how fixed.

§ 59. They shall cause notice of the time so fixed, to be inserted in the state paper for at least six weeks, and shall transmit by mail a copy of such notice to the persons interested.<sup>63</sup> Notice.

§ 60. If such conditions shall not be performed, within the time limited in such notice, the person or persons entitled to any benefit under such grant, shall forfeit all right and title in the premises.<sup>63</sup> Forfeiture.

§ 61. The commissioners of the land-office, upon the application of any person for any unappropriated lands in the fourth senate district, not less than one hundred and sixty acres, may sell such lands, if already surveyed, at such price as they shall ascertain to be their cash value.<sup>64</sup> Terms of sale of certain lands.

§ 62. If application be made for any quantity of such lands, not less than one thousand acres, not already surveyed, the commissioners may cause surveys and estimates thereof to be made, and may sell the same at their real cash value, as ascertained by them.<sup>64</sup> Proceedings.

§ 63. The purchasers of lands under the two last sections, shall be subject to the duties and liabilities, and entitled to the rights and privileges, of other purchasers of unappropriated lands.<sup>64</sup> Conditions.

§ 64. No lands so sold, for five years after the sale, shall be assessed by the assessors of the town in which they shall lie, at any higher valuation than the estimate upon which they were sold, unless improvements shall within that time have been made thereon; in which case, the value of such improvements shall be added to the estimate.<sup>64</sup> How assessed.

§ 65. The attorney-general, whenever so directed by the commissioners of the land-office, shall cause partition to be made of such tracts of land as are held in joint tenancy, or tenancy in common, in which the people of this state are interested; and for that purpose he may do all such acts as any joint tenant, or tenant in common, is authorized by law to do.<sup>65</sup> Partition in certain cases how made.

(62) Laws of 1814, p. 10, § 2. (63) Laws of 1827, p. 82 & 83, § 1. (64) Laws of 1827, p. 20. (65) 1 R. L. 484, § 1.

TITLE 5.  
 What to be  
 deemed un-  
 appropriated  
 lands.

§ 66. The lands belonging to the common school fund, all escheated lands, and all other lands belonging to this state which are not directed by law to be kept for, or applied to, any specific purpose, shall be deemed unappropriated lands, within the meaning of this Title.<sup>66</sup>

#### ARTICLE FOURTH.

#### *Of Grants of Land under Water.*

Sec. 67. When and to whom commissioners may grant lands under water.  
 68 & 69. The power given in preceding section to extend to certain waters.  
 70 & 71. Applicants to give notice, and how.

When and to  
 whom.

§ 67. The commissioners of the land-office shall have power to grant so much of the lands under the waters of navigable rivers or lakes, as they shall deem necessary, to promote the commerce of this state; but no such grant shall be made to any person, other than the proprietor of the adjacent lands, and every such grant that shall be made to any other person, shall be void.<sup>67</sup>

Certain wa-  
 ters.

§ 68. The powers hereby vested in the said commissioners, shall extend to lands under the water of Hudson's river, adjacent to the state of New-Jersey; and also to lands under the waters adjacent to and surrounding Great Barn Island, in the city and county of New-York; and to the land between high and low water mark on said island; but no grant shall be so made, as to interfere with the rights of the corporation of the city of New-York, or to affect the navigation of the waters surrounding the said island.<sup>67</sup>

1b.

§ 69. The powers of the commissioners shall also extend to the lands under water, adjacent to and surrounding Staten-Island; but no such grant shall be so made as to interfere with any rights of the corporation of the city of New-York, or to extend more than five hundred feet into the water, from low water mark.<sup>67</sup>

Notice by ap-  
 plicant.

§ 70. Every applicant for a grant of land under water, shall, previous to his application, give notice thereof, by advertisement, to be published for six weeks successively, in a newspaper printed in the county in which the land so intended to be applied for, shall be situated; and shall cause a copy of such advertisement to be put up on the door of the court-house of such county, and if there be no court-house in the county, then at such place as the commissioners shall direct.<sup>67</sup>

1b.

§ 71. If there be no newspaper published in the county where such land shall lie, the advertisement shall be published in the newspaper that shall be printed nearest to such land.

(66) Laws of 1823, chapter 321, § 6, passed April 21, 1823. (67) 1 R. L. 298, § 4; Laws of 1815, p. 201, § 1.

ARTICLE FIFTH.

ART. 5.

*Regulations concerning the Protection of the Public Lands, and the Payment of Charges thereon.*

- SEC. 72. Sheriffs to report trespasses committed upon unpatented lands within their counties, when required.
73. Duty of district attorney.
74. Penalty for taking timber from lands of state, and from Indian lands.
75. Application of such penalties when collected.
76. When body of defendant is taken in execution for such penalty, not entitled to jail limits.
77. Assessments made upon lands of state, to be paid out of the treasury.

§ 72. The commissioners of the land-office may require the sheriff of any county, in which lands belonging to the people of this state, for which patents shall not have been issued, or any Indian lands, may be situated, to examine and report to them, and to the district attorney of his county, any trespasses that may be committed on such lands, by cutting or carrying away the timber thereon.<sup>68</sup>

Trespasses to be reported by sheriff.

§ 73. Every district attorney, on receiving any such report, and also whenever directed by the commissioners of the land-office, shall commence suits against such trespassers, for the penalty imposed in the next section ; or shall present indictments against such trespassers to the grand jury of his county, as he shall judge most discreet. In either case, he shall cause the witnesses to support such prosecutions to be duly subpoenaed, and shall conduct such prosecutions to a final determination.<sup>68</sup>

Duty of district attorney

§ 74. Every person who shall trespass on any land belonging to the people of this state, or any Indian lands, by cutting or carrying away, timber growing thereon, shall forfeit and pay the sum of twenty-five dollars for every tree that shall be cut or carried away by him, or under his direction.<sup>68</sup>

Penalty for trespass on public and Indian lands.

§ 75. The district attorney shall apply such penalties, when collected, first to the payment of the costs and expenses incurred, including a reasonable compensation to the witnesses who shall attend in behalf of the people, to be certified by the court before which such recovery shall be had, and shall pay the residue thereof into the treasury of the county.<sup>68</sup>

Proceeds, how applied.

§ 76. Whenever execution shall be issued upon judgments recovered in actions for such penalties, and the body of any defendant shall be arrested thereon, he shall be imprisoned according to law, without being entitled to the liberties of the jail.<sup>68</sup>

Defendant, how imprisoned.

§ 77. All assessments legally made, upon lands belonging to the people of this state, and all legal rents or charges thereon, shall be audited by the comptroller, and paid out of the treasury. And this section shall extend to all such assessments on lands sold or leased

Assessments on public lands, how paid.

(68) Laws of 1826, p. 209. § 3.

**TITLE 5.** under the authority of this state, made prior to the sale or letting of such lands, unless the purchaser or lessee shall have agreed to pay such assessments.<sup>69</sup>

**ARTICLE SIXTH.**

*Of the Duties of the Commissioners of the Land-Office, in regard to Lands belonging to the Canal Fund.*

**Sec. 78.** How commissioners to dispose of such lands.

79. Expenses of surveys thereof, how defrayed.

80. Conditions of such sales.

81. Commissioners to appoint agents to prosecute for trespasses on lands.

82. Agents to give security.

83. They may bring suits in name of people.

84. Compensation and expenses of agent to be paid out of treasury.

How and when to be sold.

§ 78. The commissioners of the land-office shall dispose of the lands conveyed to this state for the benefit of the canal fund, in such manner, at such times, and on such terms as they shall judge best for the interest of the canal fund; and for that purpose, they shall from time to time, cause such surveys and examinations to be made, as they shall deem necessary.

Expense of surveys.

§ 79. The expenses of such surveys and examinations, shall be defrayed in the same manner, as the expenses relating to the surveys and sales, of the unappropriated lands of this state.

Terms of sale.

§ 80. Whenever any part of such lands shall be sold, the commissioners shall require at least fifty per cent. of the purchase money to be paid in hand, or secured to their satisfaction on other property, payable in three annual instalments, with interest; and in either case, the residue of the purchase money shall be payable in three yearly payments, with interest at the rate of six per cent. per annum.

Agents.

§ 81. The commissioners of the land-office shall, from time to time, appoint discreet agents, to prosecute all trespassers on any lands belonging to the canal fund.

To give bond.

§ 82. Every such agent shall give such reasonable security, from time to time, to the people of this state, for the faithful execution of his trust, as the commissioners shall require and approve.

Powers.

§ 83. He may bring suits in the name of the people, against all persons who shall have trespassed on the said lands, and may prosecute the same to judgment and execution.

Expenses.

§ 84. The costs and expenses which such agent may incur in any such suit, together with such compensation for services as the commissioners shall deem just, shall be paid to him out of the treasury; but no allowance shall be made to him for any suit in which

the defendant shall succeed on the trial, unless the commissioners shall be satisfied that there was probable cause for bringing such suit.<sup>70</sup> TITLE 6.

## TITLE VI.

### OF MORTGAGES TO THE PEOPLE OF THIS STATE, AND THE FORECLOSURE THEREOF.

- SEC. 1. Mortgages to state may be foreclosed by notice, as under a power of sale : foreclosure to bar equity of redemption.
2. In foreclosures by notice, attorney-general to give notice, to conduct proceedings, and to execute conveyance.
3. Whenever he thinks proper, attorney-general may foreclose in equity.
4. Whenever premises mortgaged to state are advertised for sale, attorney-general may postpone sale to procure an appraisement of the value.
5. Pay of persons making appraisal.
6. If appraisal equals or exceeds the amount due state, attorney-general shall bid therefor to the amount so due.
7. If appraisal is less than amount due, he shall bid the amount of appraisal.
8. Whenever premises are struck off to attorney-general for less than the amount due, so more than amount bid is to be credited to mortgagor.
9. Where premises are not purchased for benefit of state, and the mortgage does not bear more than 6 per cent. interest, what to be required of purchaser.
10. If mortgage bears 7 per cent. what to be required of purchaser.
11. If premises sell for more than amount due the state, the purchaser to pay the surplus at time of sale.
12. Attorney-general to give purchaser certificate of terms of sale, &c.
13. When premises are sold under a notice or decree, the mortgagor or his heirs may redeem within 60 days.
14. What to be paid upon such redemption.
15. If premises redeemed were purchased by attorney-general, costs, &c. of sale are to be paid to him out of treasury; if not, the sum paid by the purchaser shall be repaid to him with 10 per cent. interest.
16. When premises purchased by attorney-general are not redeemed, he shall execute a conveyance to the state therefor.
17. In this case, the expenses incurred by him are to be paid out of the treasury.
18. When premises are purchased by any other person than the attorney-general, and not redeemed, conveyance to be executed to such purchaser.
19. When premises are advertised, terms of sale to be specified in advertisement.
20. In cases of foreclosure by notice, attorney-general to file affidavit of publication in secretary's office.

§ 1. All mortgages already executed, or hereafter to be executed to the people of this state, may be foreclosed, by giving notice, in the manner in which mortgagees are authorised to sell, under a power of sale; and every foreclosure so made, shall be an absolute bar of the equity of redemption, as against the mortgagor and all incumbrancers, subsequent to the state, and all persons claiming under him or them; and shall have the like effect against all parties in interest, except prior incumbrancers, as if the mortgage had been foreclosed in a court of equity. How foreclosed by notice

§ 2. In all cases of foreclosure by notice, such notice shall be given by the attorney-general, who shall conduct the proceedings necessary to perfect every such foreclosure, and shall execute a proper conveyance, without warranty, to the purchaser.

(70) This Article was compiled from the act of 29th March, 1826: (Laws of 1826, p. 74.)

## TITLE 6.

In equity.

§ 3. Whenever, in his judgment, it shall be proper, the attorney-general may proceed to foreclose the equity of redemption, in any lands mortgaged to the people of this state, in the court of chancery, or in the equity court of the district in which the lands may be situate.

Postponement of sale, appraisal.

§ 4. Whenever any premises mortgaged to the people of this state, shall be advertised for sale, it shall be lawful for the attorney-general, at any time before the premises are actually struck off, to postpone the sale at his discretion, for the purpose of enquiring into the value of the premises; and to employ such person or persons as he shall select, to appraise the same.

Pay of appraisers.

§ 5. The persons employed by the attorney-general to make any such appraisement, shall receive a reasonable compensation for the same, to be settled and allowed by the comptroller, and to be paid out of the treasury.

Sum to be bid

§ 6. If the mortgaged premises are appraised at a sum equal to, or exceeding, the amount due the state, including costs and expenses, the attorney-general, on the sale of said premises, shall bid therefor in behalf of the people of this state, to the amount of the monies due and costs, in case such bidding shall be rendered necessary, to prevent the sale of such premises, for a less sum.

Ib.

§ 7. If the mortgaged premises are appraised at a sum less than the amount due the state, the attorney-general shall in like manner bid to the amount of such appraisement, and no more.

Sum credited.


§ 8. Whenever any mortgaged premises shall be struck off to the attorney-general, for any amount, less than the amount of mortgage money, interest and costs, no greater sum shall be credited to the mortgagor or any other person, on account of such sale, than the amount bid for the premises sold, deducting therefrom all costs and charges of sale.

Conditions of sale.

§ 9. In all cases of such sales, whether under a notice or decree, if the mortgaged premises are not purchased for the benefit of this state, the attorney-general shall, if the mortgage bear an interest not exceeding six per cent., require of the purchaser, at the time of sale, such sum as shall be equal to the costs and expenses of sale, and the one-fourth part of the monies due the state; and for securing the remainder of the monies due the state, he may, on the execution of a deed to the purchaser, accept a bond and mortgage on the premises, sold, from the purchaser, to the people of this state, payable in six equal yearly instalments, with interest at the rate of six per cent. per annum.

Ib.

§ 10. If the mortgage bear an interest of seven per cent. per annum, the attorney-general shall require of the purchaser, at the time of sale, the payment of the interest in arrear, with the costs and ex-

penses of sale, and one-fourth part of the principal of such mortgage : TITLE 6.  
 and for the remainder, on the execution of a deed to the purchaser,   
 he may accept from such purchaser a bond and mortgage, for the  
 residue of the mortgage money, to the people of this state, payable in  
 six equal yearly instalments, with lawful interest ; provided the title  
 to the lands to be mortgaged, shall be clear, and the lands, exclusive  
 of the buildings thereon, shall be worth double the principal of such  
 new mortgage.

§ 11. If the mortgaged premises shall sell for a greater sum than the  
 amount due the state and the costs and expenses of such sale, the  
 attorney-general shall also require of the purchaser, at the time of  
 sale, the payment of such surplus.

§ 12. Upon every such sale, the attorney-general shall execute a Certificate of sale.  
 certificate thereof to the purchaser, specifying the terms of the sale,  
 and the amount paid by the purchaser ; and in case the mortgaged  
 premises shall be redeemed as hereinafter provided, the sale shall be  
 void and of no effect.

§ 13. Whenever any mortgaged premises shall be sold, either un- Redemption.  
 der a notice or a decree, it shall be lawful for the mortgagor, or his  
 heirs or assigns, to redeem the same, at any time within sixty days  
 after such sale.

§ 14. Upon every redemption, the party redeeming shall pay into Conditions.  
 the treasury the full amount due the state and charged on said premi-  
 ses, together with the costs and expenses of such sale, and interest on  
 the whole sum at the rate of ten per cent. per annum from the time  
 of sale to the time of redemption ; and if the premises were sold for  
 a greater sum than the amount due the state and such costs and ex-  
 penses, he shall also pay into the treasury the like interest on the sur-  
 plus monies.

§ 15. If the premises redeemed shall have been purchased by the Costs.  
 attorney-general for the benefit of the state, the amount of the costs  
 and expenses of the sale shall be paid out of the treasury to the attor-  
 ney-general : if the premises were not so purchased, there shall be  
 paid out of the treasury to the purchaser, the sum actually paid into  
 the treasury by him, together with the amount of interest thereon, at  
 the rate of ten per cent. received from the person redeeming.

§ 16. Whenever any mortgaged premises purchased by the attor- Conveyancer to the state.  
 ney-general for the benefit of the state, shall not be redeemed, he shall,  
 if the premises were sold by him, immediately after the time allowed  
 for redemption, and if the premises were sold under a decree, imme-  
 diately after he shall have received a conveyance therefor, execute to  
 the people of this state, a proper conveyance of said premises, which  
 shall vest in the people the same title as would have been acquired

**TITLE 7.** by any other purchaser, at such sale, under a conveyance executed in pursuance thereof.

**Expenses.** § 17. Whenever any mortgaged premises are so purchased by the attorney-general, and not redeemed, all the expenses incurred by the attorney-general in the sale thereof, shall be paid to him out of the treasury.

**Conveyance to purchaser.** § 18. Whenever any premises mortgaged to the people of this state, shall be sold and purchased by any person other than the attorney-general, and not redeemed, a conveyance shall be executed to such purchaser, at the expiration of the time allowed for redemption, on the payment, by him, of the balance of the purchase money, or the execution of the proper securities therefor.

**Notice of sale** § 19. Whenever any premises mortgaged to the people of this state, shall be advertised for sale, whether the foreclosure be by notice or decree, the terms of the sale shall be specified in the advertisement.

**Evidence of sale.** § 20. In all cases of foreclosure by notice, the attorney-general shall file the affidavits of the publication of the advertisement of sale, and of the circumstances respecting the sale, in the office of the secretary of state, to be there recorded; and such affidavits, or the record thereof, shall have the like effect, as if the same had been recorded in the office of the clerk of the county where the premises are situate.<sup>71</sup>

## TITLE VII.

### OF THE PUBLIC BUILDINGS AND ERECTIONS.

- Sec. 1. "Capitol" and "State Hall," in Albany, to retain those names.
2. Corporation to have care of Capitol.
3. Care of State Hall vested in comptroller, secretary of state and surveyor-general
4. Commissary-general to have care of state arsenals, &c.
5. State prisons to be under the care of their officers.
6. Marine hospital at Staten-Island, to be under care of health commissioners of New York.
7. Pier at Sagg-Harbor to be under care of receiver of its profits.
8. Such receiver to give bonds.
9. To collect profits of pier and wharf connected with it; to account to comptroller.

**Capitol and State Hall.** § 1. The buildings in the city of Albany, now known as the "Capitol," and "State Hall," shall respectively continue to be known and denominated by those names.<sup>72</sup>

**Care of capitol.** § 2. The custody and care of the Capitol, shall continue to be vested in the corporation of the city of Albany.<sup>73</sup>

**Care of state hall.** § 3. The custody and care of the State Hall, shall be vested in the comptroller, secretary of state, and surveyor-general; and the comptroller shall have power, from time to time, to cause such repairs as

(71) Statutes referred to, and in part re-enacted, in the compilation of this Title. 1 R. L. 375, § 14; 1b. 484, § 2, 3, 4, 7 and 8; Laws of 1814, p. 21, § 4; 1822, p. 286, § 1, 2 and 3; 1834, p. 341, § 1 to 5 inc.; and 1825, p. 378. (72) 2 R. L. 644. (73) Laws of 1814, p. 287, § 46.



may be necessary to its preservation, to be made to the said building, and to draw his warrant on the treasury for the expenses thereof, not exceeding one hundred dollars in any one year.<sup>74</sup> TITLE 8.

§ 4. The custody and care of the several arsenals and magazines belonging to this state, and of the lands and buildings connected therewith, shall be vested in the commissary-general.<sup>75</sup> Arsenals, &c.

§ 5. The state prison at Mount-Pleasant, and the state prison at Auburn, and the lands and buildings connected therewith, shall severally be under the care of the officers charged therewith. State prisons.

§ 6. The marine hospital at Staten-Island, and the lands and buildings connected therewith, shall be under the care of the commissioners of health of the city of New-York. Marine hospital.

§ 7. The State Pier at the port of Sagg-Harbor, shall be under the care of the receiver of the profits thereof.<sup>75</sup> State pier.

§ 8. Every person hereafter appointed to the office of such receiver, shall, before he enters on the duties of his office, execute a bond to the people of this state, in the sum of two thousand dollars, and with one or more sureties, to be approved of by the comptroller, conditioned for the faithful performance, by such receiver, of the duties of his office; which bond shall be filed in the office of the comptroller.<sup>76</sup> Duty of receiver.

§ 9. It shall be the duty of such receiver to collect, from time to time, such portion of the profits arising from the state pier, and the long-wharf united with it, as the people of this state may be entitled to, under the appraisement and valuation made in pursuance of the act entitled "An act relative to the state wharf at the port of Sagg-Harbor," passed April 10th, 1824. He shall account with the comptroller, at the end of each year, for all monies received by him during such year, and after deducting ten per cent. thereon, as a full compensation for his services, shall pay the balance into the treasury.<sup>76</sup>

## TITLE VIII.

### OF THE STATE LIBRARY.

- Sec. 1. Annual appropriation of one thousand dollars for its enlargement.
- 2. Three hundred dollars to be paid annually by assistant register of the court of chancery, out of its fund.
- 3. When the expenses of the court will not allow of that sum, it is to be reduced.
- 4. Trustees of library to report annually to legislature.
- 5 & 6. Trustees to appoint a librarian, and to prescribe regulations of library.
- 7. President of senate and speaker of assembly, before granting certificate to members shall see that they have returned books taken from library.
- 8. No book or map to be taken, except by members of legislature.
- 9. Contingent expenses of library paid out of treasury.

(74) Laws of 1826, p. 267; 1 R. L. 490, § 25. (75) Laws of 1828, p. 350, § 54; laws of 1829, p. 228; 1834, v. 267.

**TITLE 8.**  
**Annual appropriations.**

§ 1. There shall be paid out of the treasury, to the trustees of the state library, in every year, the sum of one thousand dollars, for the gradual enlargement of the library.<sup>76</sup>

**Three hundred dollars from chancery fund.**

§ 2. It shall be the duty of the court of chancery, to direct the assistant register of that court to pay, in the month of May, in each year, to the said trustees, out of the interest or profits arising from the surplus of the common fund appertaining to the court of chancery, and under the particular charge of such assistant register, the sum of three hundred dollars, to be expended in the gradual enlargement of the library.<sup>77</sup>

**May be reduced.**

§ 3. If at any time the interest or profits of said fund shall not be sufficient to discharge the contingent expenses of the court of chancery, and also the annual appropriation of three hundred dollars, the court of chancery may direct that such annual sum be so reduced, that the expenses of the court shall be first paid.<sup>77</sup>

**Annual report.**

§ 4. It shall be the duty of the trustees of the state library, annually to report to the legislature, the manner in which the monies by them received during the year preceding, have been expended; together with a true and perfect catalogue of all the books, maps and charts then remaining in the library.<sup>78</sup>

**Librarian.**

§ 5. The trustees shall have power, from time to time, to appoint a librarian to superintend and take care of the library; and to prescribe such rules and regulations for the government of the library, as they shall think proper.<sup>79</sup>

**Regulations.**

§ 6. It shall be the duty of the trustees to provide, in their regulations, that any member of the senate or assembly, during the session of the legislature, or during the sitting of the court for the correction of errors, or of the senate only, shall be permitted, under proper restrictions, forfeitures and penalties, to take to his boarding-house, or private room, any book belonging to the library, except such books, as the trustees shall determine are necessary always to be kept in the library, as books of reference; but no member of the legislature shall be permitted to take or detain from the library, more than two volumes at any one time.<sup>80</sup>

**Members to return books.**

§ 7. Before the president of the senate, or the speaker of the assembly, shall grant to any member a certificate of the time of his attendance, he shall be satisfied that such member has returned all books taken out of the library by him, and has settled all accounts for fines, for injuring such books, or otherwise.<sup>80</sup>

**Books, &c. not to be taken out.**

§ 8. It shall also be the duty of the trustees to provide in their regulations, that no book, map, or other publication, shall be at any

(76) Laws of 1827, p. 318, § 2. (77) Laws of 1825, p. 302, § 2. (78) *Ib.* § 4. (79) Laws of 1818, p. 287, § 2. (80) Laws of 1825, p. 303, § 5.

time taken out of the library by any other person than a member of the legislature, for any purpose whatever.<sup>81</sup> ART. 1.

§ 9. The contingent expenses of the library, incurred for stationary, fire-wood, candles, and the binding of the books, purchased for or deposited in the library, shall be duly certified by a majority of the trustees, and paid out of the treasury.<sup>81</sup> Contingent expenses.

**TITLE IX.**

**OF THE CANALS.**

- ART. 1.—Designation and description of the canals.
- ART. 2.—Of the canal commissioners, and their general powers and duties.
- ART. 3.—Of the appraisement of damages.
- ART. 4.—Of the canal board, their powers and duties.
- ART. 5.—Of water privileges, and the sale of surplus waters.
- ART. 6.—Of the superintendents of repairs, and the collectors of tolls.
- ART. 7.—Regulations and penalties concerning the navigation of the canals, and the collection of tolls.
- ART. 8.—Regulations and penalties concerning the protection and maintenance of the canals.
- ART. 9.—Miscellaneous provisions of a general nature.

**ARTICLE FIRST.**

*Designation and Description of the Canals.*

- Sec. 1. Names of the canals.
- 2 The Erie and Champlain canals declared to be completed, and subject to the provisions of this Title.
- 3 Canal board to declare when other canals completed; powers of commissioners then to cease.
- 4 & 5. Map of canals to be made; to be compiled by commissioners, and filed in comptroller's office.
- 6. Comptroller to send copy to every county intersected by canal, to be filed in clerk's office.
- 7. A transcript from original, or certified copy of map, presumptive evidence.
- 8. Provisions of this Title to apply to all state canals.

§ 1. The navigable communications heretofore constructed, and now in the progress of construction, by the state, shall be known and designated as follows: Names of canals.

- 1. The navigable communication connecting the waters of lake Erie with those of the Hudson river, and all the side cuts, feeders and other works belonging to the state connected therewith, by the name of the "Erie Canal."<sup>82</sup>
- 2. That connecting the waters of lake Champlain, with those of the Hudson, and the works belonging thereto, by the name of the "Champlain Canal."<sup>82</sup>
- 3. That commencing at Geneva, and terminating near Montezuma, and connecting the waters of the Seneca lake with the Erie canal, and

(81) Laws of 1818, p. 297, § 2; 1825, p. 303, § 3 & 6. (82) 1 R. L. 247; act of June 1812, in Session Laws of 1812; Laws of 1814, p. 256, § 43; 1816, p. 296; 1817, p. 315, § 12; 1818, p. 17; 1819, p. 121, 123; 1820, p. 99, 171, 183, 225; 1821, p. 25; 1822, p. 306, 320, § 4, 5, 6; 1823, p. 116, 269; 1824, p. 315, 342; 1825, p. 398, 414; 1826, p. 39; 1827, p. 220.

**TITLE 9.** the works belonging thereto by the name of the "Cayuga and Seneca Canal."<sup>83</sup>

4. That commencing at Syracuse, and terminating at Oswego, by the name of the "Oswego Canal."<sup>84</sup>

Certain canals completed.

§ 2. The Erie and Champlain canals are hereby declared to be completed, and all the powers and authority heretofore given by law to the canal commissioners, in relation to the construction of those canals, shall be deemed to have been executed.

Completion of others, how declared.

§ 3. Whenever any canal now in the progress of construction, or that shall hereafter be constructed, shall be completed, the canal board shall, by an order, declare the fact of such completion, and from that time, all the powers and authority of the canal commissioners, in relation to the construction of such canal, shall cease.

Map, &c. of canals.

§ 4. A complete manuscript map and field notes, of every canal that now is, or hereafter shall be completed, and of all the lands belonging to the state adjacent thereto or connected therewith, shall be made, on which the boundaries of every parcel of such lands, to which the state shall have a separate title, shall be designated, and the names of the former owners and the date of each title be entered. The expense thereof shall be paid out of the canal fund. If the canal commissioners on examination of the premises, be satisfied that the cost and expense of making such map, field notes and survey, will exceed the sum of five thousand dollars, no such map and field notes shall be compiled.

Where filed.

§ 5. Every such map shall be compiled by the canal commissioners, who shall, for that purpose, cause all necessary surveys to be made; when prepared, it shall be submitted to the canal board for its approbation; and when so approved, shall be signed by the canal commissioners, be certified by them as correct, and be filed in the office of the comptroller.

ib.

§ 6. A copy of each map so filed, together with the field books and notes of such survey, or of such part thereof as the canal board shall direct, shall be transmitted by the comptroller to every county intersected by the canal to which the map shall relate, and shall be filed in the clerk's office of such county.

Copy to be evidence.

§ 7. A transcript from the original map, or from a copy thereof, certified as correct, by the officer with whom such map or copy shall be filed, shall be received as presumptive evidence, in all judicial and legal proceedings.

(83) Session laws of 1813, chap. 144; 1814, p. 146; 1817, p. 83; 1825, p. 391; 1827, p. 223, § 12. (84) Laws of 1827, p. 223, § 12.

§ 8. The provisions of this Title shall be construed to apply to every canal belonging to the state, of which the construction now is or hereafter shall be authorised by law.

ART. 2  
Application  
of this Title.

ARTICLE SECOND.

*Of the Canal Commissioners, and their General Powers and Duties.*

- Sec. 9. Superintendence of canals vested in canal commissioners, who are to form a board ; two to be acting commissioners.
10. Acting commissioners to give bond.
  11. When to be renewed.
  12. Choice of president and secretary.
  13. Of calling board together.
  14. A majority of board may do business.
  15. Board may employ agents, &c.
  16. Commissioners have power to make feeders, &c. for proper construction of canals authorised by law, and to take possession of all necessary lands, &c.
  17. Extraordinary repairs, how made.
  18. When such repairs to be made, to be completed as soon as practicable ; necessary lands, &c. may be taken possession of.
  19. Public roads may be altered or discontinued, when necessary to make such repairs.
  20. Description of the road altered or discontinued, to be drawn up and filed in town clerk's office.
  21. Passage of road discontinued, &c. not to be obstructed till new road passable.
  22. Alterations heretofore made, to be deemed valid.
  23. When navigation of canal interrupted, injury causing it to be immediately repaired.
  24. Commissioners to erect and keep toll-houses, &c. in repair.
  25. To make regulations concerning the navigation of the canal.
  26. Regulations to be printed and distributed.
  27. To be filed in comptroller's office ; proof of their existence.
  28. Portion of canal to be assigned to each acting commissioner.
  29. Duty of each acting commissioner.
  30. Must take duplicate receipts for monies paid by him.
  31. Contracts for making repairs and improvements, to be in writing.
  32. With whom copies of contracts are to be deposited.
  33. Publication of proposals for contracts.
  34. What proposals to contain.
  35. No more than one proposition to be received from any one person, for same contract.
  36. Security to be given by contractor ; penalty for violation of contract.
  37. When extra allowance to be made contractors.
  38. Materials procured under contract, exempt from execution.
  39. Either of commissioners may draw money to pay contractors.
  40. No commissioner allowed to have in his hands more than 10,000 dollars at one time.
  41. Damages and penalties recovered by commissioners, to be paid to commissioners of canal fund.
  42. Commissioners to account to comptroller, and when ; comptroller to report same to legislature.
  43. Commissioners, &c. can not be held to bail, or taken with a warrant, for any official act.
  44. When commissioners to make their report. Its contents.

§ 9. The general care and superintendence of the canals shall continue to be vested in the board of canal commissioners ; so many of whom, not exceeding two, as may be annually designated by the board, shall be acting commissioners.<sup>85</sup>

Board; acting commissioners.

§ 10. Each acting canal commissioner, before he shall enter on the duties of his office, shall execute a bond to the people of this state,

Bond of acting commissioner.

**TITLE 8.** in a penalty of twenty thousand dollars, with two substantial freeholders as sureties, conditioned for the faithful discharge of the duties of his office, and for the faithful accounting for all monies entrusted to him as such commissioner, whenever and as often as he shall be so required by law, by a concurrent resolution of the senate and assembly, or by the comptroller; such bond shall be approved of by the comptroller, and filed in his office.<sup>86</sup>

**When renewed.** § 11. Every such bond heretofore given, or that shall hereafter be given, shall be renewed from time to time with new or additional sureties, whenever such renewal shall be demanded by the comptroller, or the commissioners of the canal fund; and the refusal of any commissioner to renew his bond when so required, shall be deemed a breach of its condition.

**Officers of board.** § 12. The board shall annually choose one of their number to be their president, and another from time to time as their secretary, who shall keep and preserve regular minutes of all their proceedings.<sup>87</sup>

**Meetings, how called.** § 13. It shall be the duty of the president to call a meeting of the board, on the request in writing of a commissioner, and without such request, whenever he shall deem it expedient.<sup>87</sup>

**Quorum.** § 14. A majority of the board shall be a quorum for the transaction of business, and may adjourn from time to time, and fix the time and place of future meetings.<sup>88</sup>

**Powers of commissioners; agents, &c.** § 15. The board may employ such and so many agents, engineers, draftsmen, surveyors and other persons, as they may judge necessary, to enable them to discharge their duties as commissioners, and shall pay such compensation as they shall judge reasonable, to each person so employed.<sup>88</sup>

**Ib. Feeders, &c.** § 16. In the construction of every canal of which the construction is or shall be authorised by law, the canal commissioners shall have power, and it shall be their duty, to make all such canals, feeders, locks, dams, aqueducts, and other works, as they shall deem the proper construction of such canal to require; and they shall enter on, and take possession of, and use, all lands, streams and waters, the appropriation of which, for the use of such canals and works, shall, in their judgment, be necessary.<sup>89</sup>

**Ib. Extraordinary repairs.** § 17. Whenever, in the opinion of the canal commissioners, it shall become necessary or expedient, to make any extraordinary repairs or improvements on any completed canal, such as the opening of new feeders, or the construction of additional locks, dams, embankments, tunnels or aqueducts, it shall be their duty to cause the necessary surveys and levels to be taken, and accurate drafts, plans and

(86) Laws of 1821, p. 26, § 4. (87) Laws of 1816, p. 295, § 2. (88) Laws of 1816, p. 295, § 2; 1817, p. 302, § 2. (89) Laws of 1817, p. 302, § 3.

models, or maps, as the case may require, of the contemplated works, together with an estimate, in minute detail, of the probable expense to be incurred, and to submit the same to the canal board for their approbation.<sup>90</sup> ART. 2.

§ 18. If such extraordinary repairs or improvements shall be directed by the board or the legislature, it shall be the duty of the commissioners to proceed, as soon as circumstances will permit, to execute and complete the same; and for that purpose, by themselves or their agents, to take possession of, and use, all lands, waters or streams of which the occupation and use, in their judgment, may be necessary to enable them to discharge such duties.<sup>91</sup> To take lands, &c.

§ 19. Whenever for the purpose of constructing a canal, or making any extraordinary repairs or improvements, it shall be deemed necessary by the canal commissioner having charge of the work, to discontinue or alter any part of a public road, on account of its interference with the proper location or construction of such work, he shall make, or direct to be made, such discontinuance or alteration.<sup>92</sup> Altering roads, &c.

§ 20. It shall be his duty to draw up in writing and figures, a true description of all such parts of a public road as shall be so discontinued and new laid, and to file such description in the town clerk's office, of the town in which such parts may be situate, and from the time of such filing, such discontinuance and alterations shall be valid in law.<sup>92</sup> Proceedings.

§ 21. The canal commissioners shall not, however, obstruct the passage of any part of a public road, so discontinued or altered, until they shall have opened and worked, so as to render passable, such part of such road as shall have been new laid by their engineer; and the certificate in writing of any justice of the peace in the county where such road shall be situated, that the part so new laid has been so opened and worked, shall be their sufficient justification.<sup>92</sup> Restrictions.

§ 22. Every alteration heretofore made by any engineer, in any public road on either of the canals, shall, from the time of such alteration, be deemed valid in law.<sup>92</sup> Former alterations.

§ 23. Whenever the navigation of any of the canals shall be interrupted or endangered, it shall be the duty of the commissioners, without delay, to repair the injury causing or threatening such interruption, and for that purpose, they shall have power, by themselves or their agents, to enter upon and use any contiguous lands, and to procure therefrom all such materials as in their judgment may be necessary or proper to be used in making such repairs.<sup>93</sup> Injuries to canals.

(90) Laws of 1816, p. 266, § 3; Laws of 1827, p. 229, § 38. (91) Laws of 1817, p. 302, § 3.  
 (92) Laws of 1820, p. 190, § 21. (93) *Ib.* p. 188, § 3.

## TITLE 6.

In equity.

§ 3. Whenever, in his judgment, it shall be proper, the attorney-general may proceed to foreclose the equity of redemption, in any lands mortgaged to the people of this state, in the court of chancery, or in the equity court of the district in which the lands may be situate.

Postponement of sale, appraisal.

§ 4. Whenever any premises mortgaged to the people of this state, shall be advertised for sale, it shall be lawful for the attorney-general, at any time before the premises are actually struck off, to postpone the sale at his discretion, for the purpose of enquiring into the value of the premises; and to employ such person or persons as he shall select, to appraise the same.

Pay of appraisers.

§ 5. The persons employed by the attorney-general to make any such appraisal, shall receive a reasonable compensation for the same, to be settled and allowed by the comptroller, and to be paid out of the treasury.

Sum to be bid

§ 6. If the mortgaged premises are appraised at a sum equal to, or exceeding, the amount due the state, including costs and expenses, the attorney-general, on the sale of said premises, shall bid therefor in behalf of the people of this state, to the amount of the monies due and costs, in case such bidding shall be rendered necessary, to prevent the sale of such premises, for a less sum.

Id.

§ 7. If the mortgaged premises are appraised at a sum less than the amount due the state, the attorney-general shall in like manner bid to the amount of such appraisal, and no more.

Sum credited.

§ 8. Whenever any mortgaged premises shall be struck off to the attorney-general, for any amount, less than the amount of mortgage money, interest and costs, no greater sum shall be credited to the mortgagor or any other person, on account of such sale, than the amount bid for the premises sold, deducting therefrom all costs and charges of sale.

Conditions of sale.

§ 9. In all cases of such sales, whether under a notice or decree, if the mortgaged premises are not purchased for the benefit of this state, the attorney-general shall, if the mortgage bear an interest not exceeding six per cent., require of the purchaser, at the time of sale, such sum as shall be equal to the costs and expenses of sale, and the one-fourth part of the monies due the state; and for securing the remainder of the monies due the state, he may, on the execution of a deed to the purchaser, accept a bond and mortgage on the premises sold, from the purchaser, to the people of this state, payable in six equal yearly instalments, with interest at the rate of six per cent. per annum.

Id.

§ 10. If the mortgage bear an interest of seven per cent. per annum, the attorney-general shall require of the purchaser, at the time of sale, the payment of the interest in arrear, with the costs and ex-



And generally to enforce the faithful execution, by all persons concerned, of the provisions of this Title. ART. 2.

§ 30. It shall be the duty of each acting commissioner, to take duplicate receipts for all monies, advanced or paid by him.<sup>96</sup> Receipts.

§ 31. All contracts for the construction of a canal, and for the making of any repairs or improvements in the canals, directed by the legislature, or canal board, shall be made in writing, and of each contract, three copies shall be executed by the parties.<sup>97</sup> Contracts.

§ 32. One of such copies shall be retained by the board of canal commissioners, or the acting commissioner having the charge of such repairs or improvements; another shall be deposited with the comptroller.<sup>97</sup> Copies of them.

§ 33. Public notice shall be given of the time and place, at which sealed proposals will be received for entering into contracts, under the thirty-first section, which notice shall be published for three weeks in succession in the state paper, and in one or more of the newspapers of each county, in which the work to be performed, or any part thereof, is to be made.<sup>97</sup> Notice for proposals.

§ 34. All proposals for contracts, for which sealed proposals are to be offered, shall be for a sum certain, as to the price to be paid or received; and no proposition which is not thus definite and certain, or which contains any alternative condition or limitation, as to such price, shall be received or acted on.<sup>98</sup> Requisites of proposals.

§ 35. No more than one proposition shall be received from any one person for the same contract, and all the propositions of the person offering more than one, for the same object, shall be rejected.<sup>98</sup>

§ 36. Every person who shall enter into any contract for the supply of materials or the performance of labor, on any canal, shall give satisfactory security to the canal commissioners, for the faithful performance of his contract, according to its terms; and if any person, having given such security, shall neglect or refuse to perform his contract, he shall be excluded from any interest in any future contract, in relation to the same object.<sup>99</sup> Security.

§ 37. No allowance over and above the contract price shall be made by the canal commissioners to any contractor, unless such extra allowance shall be directed by the canal board.<sup>100</sup> Extra allowance.

§ 38. All materials procured, or partially procured, under a contract with the canal commissioners, shall be exempt from execution; but it shall be the duty of the canal commissioners, to pay the monies Certain materials exempt from execution.

(96) Laws of 1821, p. 26, § 5. (97) Laws of 1825, p. 401, § 4; 1827, p. 229, § 36; Laws of 1828, chap. 321, § 3, April 21, 1828. (98) Laws of 1826, p. 363, § 32. (99) Laws of 1827, p. 229, § 35. (100) Laws of 1826, p. 363, § 33.

**TITLE 9.** due for such materials to the judgment creditor of the contractor, under whose execution such materials might otherwise have been sold, upon his producing to them due proof that his execution would have so attached; and such payment shall be held a valid payment on the contract.<sup>1</sup>

**Payment of contracts.** § 39. Either of the canal commissioners may draw upon the commissioners of the canal fund, for any sum to be paid to a contractor, upon his contract; and if a copy of such contract shall have been duly filed in the office of the comptroller, and a receipt of the contractor for such draft shall also be filed in the same office, it shall be the duty of the commissioners of the canal fund to pay the draft.<sup>2</sup>

**Advances to commissioners.** § 40. No canal commissioner shall be allowed as such, to have in his hands at any one time, more than ten thousand dollars; and every sum advanced to, or received by him, shall be deemed to remain in his hands until its application shall have been properly accounted for to the comptroller.<sup>2</sup>

**Penalties, &c** § 41. In all cases in which suits shall be brought by the canal commissioners, or under their direction, for the recovery of penalties or damages under the provisions of this Title, it shall be their duty to keep an accurate account of the recoveries, and of the costs and expenses, and after deducting such costs and expenses, to pay over the residue of the sums received, to the commissioners of the canal fund, or account for the same with the comptroller.

**Accounts.** § 42. It shall be the duty of the canal commissioners to account and settle with the comptroller, on or before the fifteenth day of January in each year, for all monies received by them, and each of them, from the commissioners of the canal fund, or belonging to that fund; and such settlement, specifying the sums respectively paid to all contractors, engineers, agents and servants of every description, employed on the canals, and to all persons having received a compensation for damages, and the names of such persons shall, without delay, be reported by the comptroller to the legislature.<sup>3</sup>

**Certain officers not to be held to bail.** § 43. No acting commissioner, superintendent of repairs, collector or lock-keeper, on any canal, shall be held to bail, or taken by warrant, in any civil suit, for any act done, or omitted to be done by him, in the exercise of his official duties.<sup>4</sup>

**Annual report to legislature.** § 44. Within twenty days from the commencement of each annual session of the legislature, the canal commissioners shall make their report to the legislature; and in such report shall state the condition of the canals, and all the works and improvements connected therewith, the improvements and repairs made during the past year, or

(1) Laws of 1832, p. 321, §. 6. (2) Laws of 1826, p. 361, § 20; 1827, p. 229, § 38. (3) Laws of 1819, p. 124, § 6. (4) Laws of 1820, p. 190, § 22.

contemplated to be made, and the amount of monies, during the same period, received and expended by them, and each of them, in the discharge of their duties, and shall recommend such measures, in relation to the canals, as they shall deem the public interest to require.<sup>5</sup>

ART. 3

ARTICLE THIRD.

*Of the Appraisement of Damages.*

- Sec. 45. Number of canal appraisers; to take oath.  
 46. To appraise value of private property appropriated to public purposes.  
 47. To meet in the vicinity of premises, and hear evidence.  
 48. Claimants when and how to apply; consequence of neglect.  
 49. Claims for former damages, when to be exhibited.  
 50. Every decision of appraisers to be entered in a book kept for purpose.  
 51. A transcript of entry to be recorded in clerk's office of county where premises situate.  
 52. Fee simple of premises appropriated, vested in state.  
 53. When damages appraised exceed benefits, commissioners to pay excess; in case of appeal, not to pay until final decision on the appraisement is had.  
 54. Appraisers to be paid \$3 a day.  
 55. Claimant and commissioners may appeal from appraisers to supreme court.  
 56. Proceedings on appeal.  
 57. Appraisers to make return to appeal.  
 58. Acting commissioner, engineer, or superintendent of repairs, may fix, by agreement, amount of damages in certain cases.  
 59. When owner, and commissioner, &c. cannot agree, each to name a person, and they to name a third, who are to appraise damages.  
 60 & 61. If owner refuse to name an appraiser, a judge of county court to appoint one for him.  
 62. Same proceeding when commissioner, &c. refuses to appoint an appraiser.  
 63. Appraisers to take oath; their decision conclusive.  
 64. To make certificate; commissioners to pay amount certified.  
 65. Payment, or offer to pay amount, to discharge commissioners from any further liability.  
 66. When party claiming damages to pay costs of proceedings, and when commissioners.  
 67. Appraisers so appointed, to be paid \$1 50 per day.

§ 45. There shall continue to be appointed two officers, by the name of canal appraisers, who being associated with any acting canal commissioner, shall be the appraisers of damages, in the cases herein after specified. The oath or affirmation of office, taken by the canal appraisers, shall be filed in the office of the secretary of state.<sup>6</sup>

Appraisers.

§ 46. When any lands, waters or streams, appropriated by the canal commissioners, to the use of the public, shall not be given or granted to the state, it shall be the duty of the appraisers to make a just and equitable estimate and appraisement of the damages, and benefits, resulting to the persons interested in the premises so appropriated, from the construction of the work, for the purpose of making which, such premises shall have been taken.<sup>7</sup>

Their duty.

§ 47. It shall be their duty, for that purpose, to meet at such times and places as they may deem necessary, and as nearly in the vicinity of the premises, as conveniently may be, and hear such proper and

To meet, &c.

(5) Laws of 1817, p. 302, § 2; Laws of 1827, p. 229, § 57. (6) Laws of 1826, p. 308, § 1.  
 (7) Laws of 1817, p. 302, § 3.

**TITLE 9.** relevant evidence as shall be offered ; and they are, for that purpose, empowered to administer oaths to witnesses.

Claimants for future damages, when to apply.

§ 48. Every person interested in premises so appropriated, if he intend to make any claim for damages, shall, within one year after such premises shall have been taken for the use of the state, exhibit to the appraisers a statement of his claim, in writing, signed by himself, his guardian or agent, and specifying the nature and extent of his interest in the premises appropriated, and the amount of damages ; and every person refusing or neglecting to exhibit such claim, within the time prescribed, shall be deemed to have surrendered to the state his interest in the premises so appropriated.

Former damages.

§ 49. No claim for damages, for premises that shall have been appropriated to the use of a canal, at any time before this Chapter shall be in force, shall be received by the appraisers, unless it shall be exhibited within one year after this Chapter shall become a law ; and the premises so appropriated shall be deemed the property of the state ; and no claims, other than those so exhibited, shall be paid without the special direction of the legislature.

Decisions to be entered.

§ 50. A regular entry of every determination and appraisal made by the appraisers, certified and signed by the appraisers making it, and containing an apt and sufficient description of the premises so appropriated, the names of the persons interested, and the sums estimated to each, for benefits and damages, shall be made in a book kept for that purpose, by the canal commissioners.<sup>8</sup>

Copy, evidence.

§ 51. A transcript of every such entry, signed in like manner, and acknowledged or proved, as a conveyance of lands, shall be recorded in the clerk's office of each county in which the premises appropriated shall, in whole or in part, be situated.

Right of the state.

§ 52. The fee simple of all premises so appropriated, in relation to which, such estimate and appraisal shall have been made and recorded, shall be vested in the people of this state.<sup>8</sup>

Payment for damages.

§ 53. If the damages so estimated and appraised, shall exceed the benefits, it shall be the duty of the canal commissioners to pay the amount of such excess of the damages, to the persons appearing, by the determination of the appraisers, to be thereto entitled ; but no such payment shall be made, where an appeal or writ of error shall be prosecuted by the canal commissioners, until a final decision on the appraisal shall have been had.<sup>9</sup>

Pay of appraisers.

§ 54. Each appraiser, for each day's actual attendance in the discharge of the duties of his office, shall receive the sum of three dollars, to be paid out of the treasury, and charged to the canal fund.<sup>10</sup>

(8) Laws of 1817, p. 302, § 8. (9) *Ib.*; Laws of 1827, p. 280, § 48. (10) Laws of 1856, p. 400, § 8.

§ 55. Every person having exhibited a claim for damages to the appraisers, and the canal commissioners where they shall deem the interests of the state to require it, may enter an appeal from the decision of the appraisers to the supreme court, who shall proceed to reverse, affirm or modify the appraisal, as in their opinion justice shall require; but in no case shall they allow a larger sum for damages, than shall have been demanded by the party entitled thereto, in his claim exhibited to the appraisers.<sup>11</sup>

ART. 3.  
Appeal.

§ 56. Every such appeal shall be made in writing, stating briefly the grounds on which the appeal is made: if made by the canal commissioners, one copy of the appeal shall be served on the canal appraisers and another on the party claiming damages, his guardian or agent, either personally or by leaving the same at his usual place of abode; if made by the party claiming damages, one copy of the appeal shall be served on the appraisers, or one of them, and another on the canal commissioners. In all cases the appeal must be made and the proper copies served within three months, from the time that the decision appealed from, shall have been made and entered.<sup>11</sup>

Proceedings.

§ 57. The appraisers shall make a return, in writing, to every appeal so served on them, and shall insert and state therein a copy of the claim for damages exhibited to them, the evidence produced or offered before them, and the grounds and reasons of their determination.

§ 58. When damages shall be claimed by the owner of any land which the canal commissioners shall have occupied for temporary purposes, or on which they shall have entered for the purpose of obtaining materials for repairs, the acting commissioner on the line of the canal nearest to which the land shall be situate, or any engineer or superintendent of repairs authorised by him, may fix by agreement the amount of damages which such owner ought to receive.<sup>12</sup>

Damages settled by agreement.

§ 59. If an agreement can not be made, the owner shall select one discreet freeholder of the county in which the land is situate, having no interest, direct or indirect, in the damages claimed, and the canal commissioner, engineer or superintendent, another; and the two thus chosen shall select a third to act with them in appraising the damages so claimed.<sup>12</sup>

Reference.

§ 60. If the owner shall refuse or neglect to appoint an appraiser, such canal commissioner, engineer or superintendent shall serve upon him a notice, stating the name of the appraiser appointed by himself, and requiring such owner to make a similar appointment within two days thereafter, and if within that time no such appointment shall be made and signified, such commissioner, engineer or superintendent

Proceedings.

shall apply to a judge of the county court of the county where the lands are situated, to appoint an appraiser in behalf of such owner.

§ 61. The judge to whom such application shall be made, upon due proof of the service of such notice, shall, in writing, appoint an appraiser in behalf of the owner, who shall have the same powers as if appointed by the owner himself.

§ 62. The two last preceding sections shall be construed as also prescribing the course to be pursued by the owner of the lands, where the refusal or neglect to appoint an appraiser, shall proceed from such canal commissioner, engineer or superintendent.

§ 63. The appraisers shall, before they enter on the duties of their trust, take the oath prescribed by the constitution of this state, before any person authorised to administer oaths; they shall then proceed to enquire into and assess the damages so claimed, and their determination, or that of any two of them, as to the amount of damages that ought to be paid, shall be conclusive.<sup>12</sup>

§ 64. The appraisers making such determination, shall make a certificate thereof, under their hands and seals, and the amount of damages thus certified, (the costs, when not payable by the canal commissioners being deducted,) shall be paid by the canal commissioners to the person appearing by such certificate to be entitled thereto, within ten days after such certificate shall have been received by the canal commissioners, or as soon thereafter as they shall be in funds.<sup>12</sup>

Claim how barred.

§ 65. Proof of such payment, or of the offer thereof, in case the party entitled thereto, shall decline to receive the same, shall forever discharge the canal commissioners and all persons employed by them, from all claims for entering upon and occupying such lands, and for taking and using the materials procured therefrom.<sup>12</sup>

Costs how paid.

§ 66. If the amount of damages so certified shall, in any case, not exceed the sum offered for such damages by such acting canal commissioner, engineer, or superintendent, before the appointment of the appraisers, then the costs of all the proceedings after such offer, shall be deducted by the canal commissioners from the amount of damages certified; but if such amount shall exceed such previous offer, then all such costs shall be paid by the commissioners, in addition to the damages certified.<sup>12</sup>

Fees of appraisers.

§ 67. Each of such appraisers shall be entitled for his services, to the sum of one dollar and fifty cents per day.<sup>12</sup>

## ARTICLE FOURTH.

## ART. 4.

*Of the Canal Board, their Powers and Duties.*

Sec. 68 & 69. Canal board, their powers and duties.

70. To fix rates of toll, regulate their collection, and impose forfeitures.

71. Twenty-sixth and twenty-seventh sections of this Title to embrace such rates of toll.

72 & 73. Board may remit forfeitures, and when.

74. When estimated repairs on canals less than \$30,000, board to execute them, when more, to report plan and estimate to the legislature before making them.

75. When board may sell or lease, for term of years, surplus water, to the highest bidder.

76 & 77. Canal board may make extra allowance to contractors, and when.

78. Contractor claiming extra allowance, to present a petition to board, verified by proof.

§ 68. There shall continue to be a canal board, who shall possess <sup>Powers and duties.</sup> the powers, and discharge the duties, enumerated in this Title, or which shall hereafter be by law enacted or declared.<sup>14</sup>

§ 69. They shall have power to appoint so many superintendents <sup>to</sup> of repairs, and collectors of tolls, on the canals, as they may deem necessary, to supply all vacancies that may occur in those offices, to remove any so appointed when they judge such removal proper, and <sup>Appointment of officers, &c.</sup> to determine the amount of compensation which they shall respectively receive; but no compensation exceeding one thousand dollars for any one year, shall be allowed to any superintendent.<sup>15</sup>

§ 70. The canal board shall, from time to time, fix the rates of <sup>Rates of toll.</sup> tolls to be collected on the canals, and shall prescribe such rules and regulations relative to their collection, and impose such forfeitures of money, for the breach thereof, as from time to time they shall judge reasonable; provided no forfeiture for a single offence shall exceed the sum of twenty-five dollars.<sup>16</sup>

§ 71. The provisions of the twenty-sixth and twenty-seventh sections of this Title, shall be construed to embrace all rates of toll, rules and regulations, so fixed and prescribed.<sup>17</sup>

§ 72. The canal board shall have power to remit, either absolute- <sup>Remission of penalties.</sup> ly, or upon such conditions as they shall prescribe, any forfeitures that may be incurred, by a violation of any of the provisions of this Title, or of any of the rules and regulations established by themselves, or the canal commissioners.

§ 73. No such forfeitures shall, however, be remitted, unless on <sup>Proceedings.</sup> the petition, in writing, of the party liable thereto, supported by due proof of the facts, upon which the claim for a remission shall be founded, and every such petition, with the accompanying proof, and the order of the board thereon, shall be preserved and filed in the office of the comptroller.

(14) Laws of 1826, p. 200, § 4. (15) *Id.* § 5; Laws of 1827, p. 224, § 12. (16) Laws of 1826, p. 189, § 20; 1826, p. 360, § 5; 1827, p. 224, § 13 (17) Laws of 1827, p. 224, § 15.

TITLE 9.  
Estimates for  
repairs.

§ 74. Whenever the canal board shall have received from the canal commissioners, the plan of any extraordinary repairs or improvements on the canals, and an estimate of the expense thereof, if such estimate shall not exceed the sum of thirty thousand dollars, they may direct such repairs or improvements to be made; but if the estimated expense shall exceed that sum, they shall report the plan and estimate, together with their opinion thereon, to the legislature.

Surplus wa-  
ters.

§ 75. Whenever in the opinion of the board, any water may be spared from any state canal, or works connected therewith, without injury to the navigation or safety of such canal, and the persons entitled to the first privilege of taking such water, shall not avail themselves thereof, or there shall be no persons so entitled, the board may order a sale of such surplus water, for a term of years, in their discretion, to the person who shall bid the highest annual rent therefor.<sup>18</sup>

Extra allow-  
ance.

§ 76. The canal board may make such an extra allowance as they may judge reasonable, to any contractor, for work performed, or to be performed on the canal, and direct the same to be paid by the canal commissioners, or by the commissioners of the canal fund.<sup>19</sup>

In what ca-  
ses.

§ 77. Such extra allowance shall not be made for, or include, losses resulting to the contractor from the unfavorable terms of his contract, but shall be confined to an indemnity for extra expenses and labor, in constructing the work contracted for, occasioned either by new directions given by a canal commissioner, engineer, or superintendent of repairs, after the making of the contract, or where, in consequence of the work proving to be of a different character or description than it was contemplated to be by the commissioners, or engineer, at the time of the making of the contract.<sup>19</sup>

Proceedings.

§ 78. Every contractor claiming an extra allowance, shall present a petition, in writing, to the canal board, stating the facts on which his claim is founded, and the sum demanded as an indemnity, and shall support his petition by such proof as the board shall require; and every such petition, with the proof in support thereof, and the order of the board thereon, shall be preserved and filed in the office of the comptroller.

#### ARTICLE FIFTH.

##### *Of Water Privileges, and the Sale of Surplus Waters.*

Sec. 79. Commissioners to agree with owners of hydraulic privileges for surplus waters.

80. When surplus waters are created by constructing dams, &c. persons owning works contiguous thereto, may use such waters, upon complying with certain conditions.

81. Value of such waters to be estimated by appraisers.

82. If such owners refuse to comply with conditions, not to have use of waters.

83. Commissioners may resume use of waters when necessary.

(18) Laws of 1825, p. 399, § 3; 1826, p. 363, § 31. (19) Laws of 1826, p. 363, § 33; 1827, p. 373, § 1.



SEC. 84. Owner of works, not to be affected until his damages are paid.

85. Owners of hydraulic works, in certain cases entitled to surplus waters.

86. Owners of land over which surplus water flows, and adjoining dams, entitled to surplus water.

87. Value how ascertained; value of former use of water how ascertained, and when to be paid.

88. How right of such owners to surplus water may be waived or forfeited.

89. Qualifications of preceding sections; not compulsory to close race-ways or gates: sale of surplus waters not to be made, when no right will be conferred.

90. Manner and terms of sale, of surplus waters.

91. Canal board to revoke former leases, where no right to use surplus waters has been conveyed.

92. Where there is a partial resumption of waters, purchaser entitled to what is not resumed.

93. Where stone walls to be made, and the manner of erecting.

94. Waste-gates, sluice, slide, &c. when and where to be erected.

95. Penalty for injuring or lowering stone walls.

96. Persons owning water privileges on the canals, to discharge the waters as commissioners shall direct.

97. Commissioners, or party grieved, may bring writ of error upon decision of supreme court, in relation to water privileges.

98. Duty of clerk of supreme court, upon being served with writ of error.

ART. 5.

§ 79. Whenever it shall become necessary to secure to any state canal, an additional supply of water, the canal commissioners may agree with the proprietors of hydraulic privileges, affected by their proceedings, relative to the use of the water privileges to be created, and of the surplus water, in such manner as they shall deem most beneficial to the state.<sup>20</sup>

Agreements respecting.

§ 80. Whenever the canal commissioners shall construct a dam across any river or creek, to raise a head of water for the use of a canal, by means whereof, any works adjacent to such river or creek, in which water power is employed, before such time legally used, may be benefitted without prejudice to the canal, the owner of such works, for their benefit, shall be entitled to the use of the surplus water, upon his complying with the following conditions:

Who entitled to, in certain cases, and conditions.

1. He shall construct, under the direction of the canal commissioners, a good and substantial race-way and gate in such dam, to draw off as much of the surplus water as his works may require.

2. He shall give such security to the people of this state, as the canal commissioners shall deem sufficient, to keep such gate and race-way in complete repair, so as to prevent any waste of water.

3. He shall, within ninety days after such race-way and gate shall be completed, apply to the canal appraisers, and request them to ascertain the benefits accruing to him, from the use of such dam, or other erection.

4. Within ninety days after such benefits shall have been so ascertained, he shall pay the sum at which they shall be estimated, into the treasury.<sup>20</sup>

§ 81. It shall be the duty of the canal appraisers, when so required, to make a fair estimate of the benefits so accruing to such owner,

Appraisers

(20) Laws of 1828, p. 269, § 2; Ib. p. 132, § 1 and 2.

**TITLE 9.** and to make a return thereof, without delay, to the treasurer of the state.<sup>21</sup>

**Duty of owners.** § 82. If the conditions, as above specified, shall not be fulfilled by such owner, it shall be the duty of the acting canal commissioner, to close any race-way or gate such owner may have constructed; nor shall the owner again open the same, or any other in the same dam, unless upon the performance of the conditions so imposed.<sup>21</sup>

**When to be resumed.** § 83. The canal commissioners may resume the privileges so granted, whenever, in their judgment, the surplus water, or a portion thereof, shall become necessary for the use of the canal; but whenever such privileges shall be so resumed, the sum paid into the treasury therefor, shall be refunded.<sup>21</sup>

**Construction of this Article.** § 84. Nothing in this Article contained, shall be construed to deprive the owner of hydraulic privileges, of any rights possessed by him, prior to any grant from the state under this Article, unless his damages from the loss of such rights, shall be duly assessed and paid.<sup>22</sup>

**Reference in the use of water.** § 85. In all cases where water or mill privileges, before legally used, have been or shall be injured by reason of the diversion of the water to the use of either of the canals, the persons so injured shall be entitled to the first privilege of taking water for the use of their works, on the terms and conditions above specified, from any work constructed for the purpose of such diversion, or from the canal itself benefitted thereby, when there is a surplus of water, and with the consent of the canal commissioners.<sup>21</sup>

**Other persons entitled first, to surplus waters.** § 86. Whenever the canal board shall order a sale of surplus waters, pursuant to the provisions of the seventy-fifth section of this Title, to the use of which no person shall be first entitled as the owner of works before such time legally used, according to the preceding eighth-tieth section, the owners of the land upon which such surplus waters shall flow, and the owner of land adjoining any dam erected by the canal commissioners, by which surplus water shall be created, shall be entitled to the first privilege of taking such waters, subject to the provisions of this Article so far as the same may be applicable; and the canal commissioners shall have the same powers in relation to all such surplus waters, as are herein given in respect to surplus water by which hydraulic privileges are benefitted.<sup>22</sup>

**Value how ascertained.** § 87. Whenever the owner of any land over which surplus water shall flow, or the owner of land adjoining any dam by which surplus water shall be created, entitled according to the last section, to the use of such water, shall apply for a lease of the same, the canal commissioners shall direct the canal appraisers to estimate the value of

(21) Laws of 1823, p. 269, § 2; R. p. 163, § 1. (22) Act of April 21, 1838, p. 426, chapter 317.

the use of such water; and the said appraisers shall include in such estimate, the value of any use of such water, which such owner may have had previous to obtaining a lease therefor; and within ninety days after such appraisal shall have been made, and notice thereof given to such owner, he shall pay the amount of the value of such previous use, into the treasury.<sup>23</sup>

ART. 5.  
Value of former use of surplus water.

§ 88. If any owner of land over which such surplus water shall flow, or if any owner of land adjoining any dam by which surplus water shall be created, shall omit for three months after being notified by the acting canal commissioner to that effect, to apply for a lease of such water, or shall neglect to comply with any of the provisions of this Article, the canal board shall order a sale of such surplus water.<sup>23</sup>

How right waived or forfeited.

§ 89. But in cases, where in the opinion of the acting canal commissioner, it would be inexpedient to close any race-way or gate, it shall not be compulsory on him to do so; and where, in the opinion of the canal board, a lease of surplus waters, will not confer on the lessee, any right or authority to use the same without the consent of the owner of the land over which such surplus water shall flow, they shall not authorise the letting of the same, without evidence, that the consent of such owner has been given to such use.<sup>23</sup>

Qualification of preceding sections as to race-ways.  
As to sale of surplus water.

§ 90. Whenever a sale of surplus water shall have been directed by the canal board, the acting canal commissioner within whose line such water shall fall, shall proceed to sell and convey such surplus water in the manner following:

Proceeding on sale of water.

1. Each privilege of using such water shall be sold separately, at public auction, to the person bidding the highest annual rent therefor.
2. The place of sale shall be in the vicinity of the place where the water may be most conveniently used.
3. A notice, stating the time and place of the sale, and describing the waters to be sold, shall be published twice in each week, for six weeks in succession, immediately preceding the sale, in the state paper, and once in each week for the same time, in each of the newspapers printed in the county where the water is to be sold.
4. A lease for such a term of years as shall have been directed by the canal board, shall be executed by the commissioners, in the name of the people of this state, to the purchaser, and in such conveyance, the rent bid by such purchaser, shall be reserved.
5. The conveyance shall contain a covenant, that the rent therein reserved, shall be paid annually to the commissioners of the canal fund, and a condition, that if such rent shall remain unpaid for one year after it shall become due, the grant or lease shall become forfeited to the state.

(23) Act of April 21, 1823, p. 423, chap. 317.

## TITLE 9.

6. The conveyance shall also contain a reservation of the right, wholly to resume the water so conveyed, and the privileges thereby granted, and to control and limit the use of such water and privileges, whenever, in the opinion of the canal board, or of the legislature, the necessary supply of water for the use of any state canal, or the safety of such canal, or works connected therewith, shall render such resumption, control or limitation necessary; and a provision that where such resumption is made, or control or limitation imposed, no compensation or damages shall be allowed for any improvements or erections made in consequence of such grant or lease.

7. The conveyance shall contain a further reservation of the right of the state, without making any compensation to the purchaser, wholly to abandon or destroy the work, by the construction of which, such surplus waters shall have been created, whenever in the opinion of the canal commissioners, the occupation and use of such work, shall cease to be advantageous to the state.

8. A duplicate of such conveyance, under the hand and seal of the purchaser, shall be executed and delivered by him to the acting canal commissioner, who shall, without delay, procure the same to be recorded in the clerk's office of the county, in which the water sold shall be situated, and shall transmit it, when recorded, to the commissioners of the canal fund.

9. All the expenses attending the execution of the conveyances, and the recording thereof, shall be paid by the purchaser.<sup>24</sup>

Canal board when to revoke former leases.

§ 91. When the canal board shall be satisfied that any lease of surplus waters granted by the canal commissioners, or either of them, before the twenty-first day of April, one thousand eight hundred and twenty-eight, is invalid, or conveys no right to use such waters, and may expose the state to claims for remuneration, they may revoke and annul such lease, and may direct the re-payment to such lessee, of any monies received on such lease, with interest from the time of such payment; which shall be paid accordingly, on the warrant of the comptroller, from the canal fund.<sup>25</sup>

Right of purchaser.

§ 92. Where there shall be a partial resumption only of the waters so sold, the purchaser shall be entitled to the use of the remaining water privileges for the residue of his term, on the payment of such reduced rent as shall be fixed by the canal board; but if he shall refuse to accept thereof at the rent so reduced, the privileges so remaining, shall be again sold by the canal commissioners, under the direction of the canal board.

Walls to be erected.

§ 93. At every place, where waters are to be taken from any state canal, or work connected therewith, for hydraulic purposes, except if

(24) Laws of 1825, p. 309, § 8; 1826, p. 363, § 31. (25) Act of April 21, 1828, p. 26, chapter 317.

Black Rock, at the mouth of Tonnewanta creek, and at the locks at Lockport, and except where such waters are taken from a dam across a stream which is used as a feeder, or from a feeder not navigable, the canal commissioners shall construct a permanent wall or erection of stone laid in mortar, and cemented, of sufficient thickness to ensure the safety of the canal, and such wall shall not in any case be more than six inches lower than the top-water line of the canal.<sup>26</sup>

ART. 5.

§ 94. No waste-gate, sluice, slide, water-gate or other passage, shall be made in connexion with any wall or erection over which water is to be drawn, in such a manner that the same can be opened, or that water can be drawn by, through or under the same, to the use of any mill or machinery, using water from the canal, except at the four places above excepted.<sup>26</sup>

No waste-gates, &c. in them.

§ 95. Any person who shall wilfully make, or cause to be made, any breach, hole or passage in, through or under any such wall or erection, or who shall lower the same, or cause it to be done, for the purpose of drawing water to any mill or machinery, or the effect of which, shall be, to lower the water in the canal, shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment; the fine for each offence not to exceed two hundred and fifty dollars, nor the imprisonment six months.<sup>27</sup>

Penalties.

§ 96. Every person now owning any water privilege, upon either of the canals, or hereafter purchasing any such privilege of the state, shall discharge the waters owned by him at such place or places, as the canal commissioners shall direct, whenever the navigation or safety of the canal, or any of its works, shall be benefitted by such direction.<sup>28</sup>

Water how discharged.

§ 97. The canal commissioners, or the party aggrieved, may bring a writ of error from any decision of the supreme court hereafter to be made, touching any claim made against the state, for deprivation of any right, or pretended right, to the use of any water or water privileges, or fisheries, in consequence of the construction of any canal or feeder, now or hereafter to be made, whether the decision be made upon any case arising on a *mandamus* or otherwise; and although no pleadings were had or issue joined in the cause.<sup>29</sup>

Error from decisions of supreme court.

§ 98. On service of such writ of error it shall be the duty of the clerk of the supreme court, to make out a transcript of the record, or papers and documents, on which such decision was had, and to cause the same to be filed with the clerk of the court for the trial of impeachments and the correction of errors, in twenty days after service of the writ.<sup>29</sup>

Proceeding.

(26) Laws of 1836, p. 362, § 26; 1837, p. 233, § 11. (27) Laws of 1836, p. 362, § 27. (28) Id. § 29. (29) Laws of 1837, p. 230, § 42.

## TITLE 9.

## ARTICLE SIXTH.

*Of the Superintendents of Repairs, and the Collectors of Tolls.*

Sec. 99. Superintendent of repairs, and collectors shall give bond.

100. Duty of superintendent.

101. Shall be under direction of commissioners.

102. To account to comptroller; duty of comptroller in case of neglect, &c.

103. Account to be certified by canal commissioners, before presented.

104. Collectors to keep account of tolls received.

105. To make abstracts of daily receipts, and to send them to comptroller weekly.

106. To deposit monies received by them every two weeks, in banks to be named by canal board.

107. Banks with whom deposits are made to transmit monthly account to comptroller.

108. Collectors may be authorised to refund tolls erroneously paid.

109. In case collector omits to deposit tolls, comptroller to issue warrant upon his property and that of his sureties.

110. Sheriff to whom it is directed, immediately to execute it.

To give bonds,

§ 99. Each superintendent of repairs and every collector of tolls, before he shall enter on his official duties, shall execute and file in the office of the comptroller, a bond for the faithful execution of his trust, in such penalty and form as the canal board shall direct, and with such sureties as the comptroller shall approve.

Duty of superintendent.

§ 100. It shall be the duty of each superintendent, under the direction of the canal commissioners, to keep in repair such sections of the canals and works connected therewith, as shall be committed to his charge: to make all necessary contracts for that purpose, and faithfully to expend all such monies as shall be placed in his hands, by the canal commissioners or the commissioners of the canal fund.<sup>30</sup>

11.

§ 101. Each superintendent shall be under the direction of the canal commissioners and especially of the acting commissioner, having charge of the line of the canal, on which such superintendent is employed.<sup>31</sup>

To account.

§ 102. Each superintendent shall, as often as once in sixty days, render his account to the comptroller, who shall audit the same; and if any superintendent shall omit to render his account, or his account as rendered be not satisfactory, the comptroller shall notify the canal board and the commissioners of the canal fund thereof; and no further advances of money shall be made to such superintendent, but he shall be immediately removed from office.<sup>32</sup>

How verified.

§ 103. Before any superintendent's account for expenditures shall be presented to the comptroller, the canal commissioner having charge of that part of the canal on which such superintendent is employed, shall certify on such account, that he has examined the same; that the several disbursements specified therein, were made under his direction on the canal, or for repairs necessary to be made thereon; and that he believes such disbursements to be proper and reasonable, and to have been made, as charged.<sup>32</sup>

(30) Laws of 1826, p. 361, § 2. (31) Laws of 1827, p. 224, § 14. (32) *Ib.* § 13.

§ 104. The collectors of tolls shall keep accounts of all tolls received by them, in such form as shall be prescribed from time to time by the comptroller, and shall deposit such original books of account, together with such clearances and other papers as he shall require, in the comptroller's office, on or before the tenth day of January in each year.<sup>33</sup>

ART. 6.  
Duty of collectors.

§ 105. They shall also make abstracts from such books showing the amount of tolls received by them each day, and transmit the same by mail, to the comptroller, four times in each month, on such days as he shall direct.<sup>34</sup>

Abstracts.

§ 106. They shall deposit the monies received by them for tolls, to the credit of the treasurer of this state, at least once in two weeks, in such banks as may, from time to time, be designated by the canal board.<sup>35</sup>

Deposits in banks.

§ 107. The comptroller shall require the several banks so designated, to transmit to him, by mail, a monthly account of deposits by the collectors of tolls; and if any bank shall neglect to comply with such requisition, or he shall doubt its solvency, he shall direct such deposits to be made in such other bank as he shall designate, until the further order of the canal board.<sup>36</sup>

Duty of banks.

§ 108. The collectors may be authorised to refund tolls erroneously paid to them, or which equitably ought to be refunded, under such regulations as shall be prescribed by the comptroller.<sup>37</sup>

Refunding tolls.

§ 109. If any collector of tolls shall neglect to deposit, according to law and the directions of the comptroller, the monies, that, from the abstracts of returns made to the comptroller, he shall appear to have collected for tolls, the comptroller may issue a warrant, under his hand and seal, directed to the sheriff of any county where such collector or any of his sureties may be found, thereby commanding such sheriff to cause the amount of tolls in the hands of such collector, (or such part thereof as the comptroller shall direct by the warrant,) to be made and levied of the goods and chattels, lands and tenements of such collector; and in case the same shall not be sufficient, then of the goods and chattels, lands and tenements of the sureties of such collector; and to return the money, together with the warrant and his doings thereon, to the comptroller, within sixty days from the date thereof.<sup>38</sup>

Proceeding against collectors.

§ 110. The sheriff to whom such warrant shall be directed, shall immediately cause the same to be executed; and may demand and collect the same fees for executing the same, as are allowed by law for the service of executions issuing out of the supreme court.<sup>39</sup>

(33) Laws of 1826, p. 360, § 7. (34) *Ib.* § 8. (35) Laws of 1826, p. 360, § 9. (36) *Ib.* § 11. (37) *Ib.* § 12. (38) *Ib.* § 18. (39) *Ib.* § 19.

## TITLE 9.

## ARTICLE SEVENTH.

*Regulations and Penalties concerning the Navigation of the Canals, and the Collection of Tolls.*

- Sec. 111. Owners of canal boats to give certificate of registry to collectors.
112. If master of boat, whose owners reside out of state, is changed after certificate is given, new master to give one.
113. Collector to give receipt for certificate.
114. Comptroller to make register of boats navigating canals.
115. When boat is transferred, comptroller to alter register, upon proof of fact.
116. Comptroller to send collectors copy of register.
117. No clearance granted without proof of registry.
118. Persons named in certificate, deemed owners of boats, for certain purposes.
119. Penalty for changing name of boat without consent of comptroller, or for reporting false name.
120. No boat to have a clearance without name on it.
- 121 & 122. Masters of boats carrying property, to show bills of lading to what collectors.
123. Where no collectors at place of lading, delivery, or any intermediate place, bill of lading to be exhibited to collector at nearest place of delivery.
- 124 & 125. Penalty for exhibiting a false bill, or omitting to show true one when required.
126. Collector may compel master to verify bill by oath.
127. Every boat navigating canal, to have a separate clearance.
128. No boat to proceed beyond place for which it is cleared, until clearance shown to collector at that place.
129. If no collector at such place, clearance to be delivered at collector's office that last passes in voyage.
130. Twenty-five dollars penalty for not delivering clearance.
131. Collectors to give copies of clearances.
132. Such copy to have effect of original; collector's fees for making it.
133. Tonnage on canals to be ascertained and charged according to real weight of articles.
134. When master of boat and collector can not agree as to amount of bulk, articles to be weighed, &c.
135. Master to pay expense of weighing, &c.
136. Collector may detain boat and cargo until tolls, &c. are paid.
137. If payment be refused, collector may distrain and sell property.
138. Surplus arising from sale, after paying charges, &c. paid to master of boat, or owner of property.
139. Statement of passengers to be furnished by masters of certain boats.
140. What first statement delivered, to contain.
141. When such statement is required, if the boat has conveyed no passengers, master to present to collector affidavit of fact.
142. If more than one person has had charge of boat, during time statement, &c. is required, each to make such statement, &c.
- 143 & 144. Collector to transmit such statement and affidavit to comptroller; penalty on master for not furnishing them; boat may be refused a clearance.
145. Collector receiving statement, &c. to give acknowledgment.
146. Certificate of comptroller, that no statement, &c. has been received at his office, presumptive evidence that none has been made.
147. Tolls on passengers in boats not belonging to a line, &c. how to be paid; penalties.
148. A specified sum, by the year, may be received as a commutation for tolls upon passengers.
149. Commissioners of canal fund to prescribe time of payment of commutation.
150. Bill of lading delivered, or payment of tolls made to persons authorized by collector, same as made to him.
151. Collector, &c. to assign births to boats, when disputes arise concerning them.
152. No float to go over four miles an hour; ten dollars penalty for so doing.
153. When passage boat overtakes float, master of latter to let former pass.
154. When two floats meet, each to take the right.
155. When two floats meet, in certain places, which shall stop until other passes.
156. Ten dollars penalty for violating either of three preceding sections.
157. Floats within 100 yards of lock, on level with water in lock, to pass before any float on another level.
158. Questions of precedence in passing locks, to be decided by lock-keeper.



- 160. Twenty-five dollars penalty for not conforming to such decision, or for violating two preceding sections.
- 160. Twenty-five dollars penalty for using shafts pointed with iron, on canal.
- 161. Decked boats to have knife fixed on bow or stem.
- 162. Twenty-five dollars penalty for not complying with above provision.
- 163. Same penalty for obstructing canal, by mooring boats, &c.
- 164. Penalty for obstructing it by sinking any boat, &c. &c.
- 165. Boats, &c. found floating in canal, or any articles found on tow-path, to be seized and sold.
- 166. If owner of article pays costs, &c. not to be sold.
- 167. Avails, how accounted for.
- 168. If articles sold, proceeds of sale to be paid to owner, after deducting costs, &c.
- 169 & 170. Forfeiture for taking rails, posts, &c. from banks of canals.
- 171. Penalties, &c. enacted by this article, chargeable on boat or float.
- 172. When such penalty is sued for, process to direct officer to detain boat, &c.
- 173. If defendant prevail, to be released; if judgment recovered against him, to be sold, if amount, with costs, &c. not paid.

ART. 7.

§ 111. The owners of every boat navigating the canals, shall subscribe and deliver to the collector of whom the first clearance for such boat shall be demanded, a certificate, to be entitled, "a certificate of registry," containing the names of such owners, and their respective places of abode, and also the name of the boat, and of some place as that where it is owned; if the owners shall reside out of this state, the certificate of registry shall be signed and delivered by the master of the boat, as the owner thereof.<sup>40</sup> Certificate of registry.

§ 112. If the master of a boat of which the owners reside out of the state, shall be changed after he shall have delivered such certificate, the new master shall sign and deliver a proper certificate of registry, to the collector of whom he shall first require a clearance.<sup>40</sup>

§ 113. Every collector receiving a certificate of registry, shall sign an acknowledgment of the receipt thereof, and deliver the same to the master of the boat; and shall, without delay, transmit the certificate received, to the comptroller.<sup>40</sup> Duty of collector.

§ 114. The comptroller shall make a register of all boats navigating the canals, which shall be kept with the books and papers in his office relative to the canals, and be open to inspection during office hours. The name of no registered boat shall be changed, without the order of the comptroller.<sup>40</sup> Duty of comptroller.

§ 115. If any persons residing within the state, claiming to be the owners of a registered boat, by a transfer from its former owners, shall produce to the comptroller, due proof of such transfer, and shall deliver him a new certificate of registry signed by themselves, it shall be the duty of the comptroller to change the register of such boat, so as to correspond with such new certificate.<sup>40</sup> Register, how changed.

§ 116. The comptroller shall, from time to time, transmit to the several collectors, a certified copy of the register of boats in his office, and of the several changes made therein.<sup>40</sup> Copies to collectors.

**TITLE 9.** **Clearances, when granted.** § 117. No clearance shall be granted to any boat, unless the collector of whom it is required, shall have evidence that such boat is duly registered; or if it be not registered, until the master thereof shall have delivered to such collector, a proper certificate of registry, or have exhibited to him, the receipt of some other collector, for such certificate.<sup>41</sup>

**Who owner.** § 118. The persons specified in its certificate of registry, as the owners of a boat, shall be deemed in law the true owners thereof, for all purposes of enforcing the collection of tolls, and the execution of the rules and regulations for the navigation or maintenance of the canals.<sup>41</sup>

**Penalties.** § 119. Every owner of a boat who shall change its name from that stated in its certificate of registry, then in force, without the order of the comptroller, and every master who shall enter or report such boat, at any collector's office, by a different name than that so stated; shall, for every such offence, forfeit the sum of twenty-five dollars.<sup>41</sup>

**Name to be on each boat.** § 120. No boat shall receive a clearance, or be permitted to pass on any canal, which shall not have the name thereof, and of the place where it is owned, corresponding with its certificate of registry then in force, painted in some conspicuous and permanent part of the outside of the boat, in letters of at least four inches in height.<sup>41</sup>

**Bill of lading; its contents.** § 121. Every master of a boat conveying property on a canal, shall exhibit to the several collectors hereinafter mentioned, a just and true account, or bill of lading, of such property, signed by himself and by the consignor thereof, and containing,

1. The name of each place on the canal, where any portion of such property was shipped, and of the place for which it is intended to be cleared.

2. A statement of the weight of all the articles, of such property on which toll is charged by the ton, of the number of articles, on which toll is charged by the number, and of the feet of each article, on which toll is charged by the foot.

3. A specification of the weight or quantity of each article, where a different rate of toll is charged on different articles, on which toll is so computed.<sup>42</sup>

**To whom to be exhibited.** § 122. Every such account or bill of lading shall be exhibited,

1. To every collector of whom a clearance shall be required.
2. To every collector whose office shall be the next in order, in the course of the voyage, to the place where a clearance shall have been given.

3. To every collector at a place where any portion of the cargo shall be unladen, or any additional cargo be received; or if there be no collector at such place, to the collector whose office shall be next in order in the course of the voyage. ART. 7.

4. To every other collector who shall demand such account, or bill of lading, to be exhibited.<sup>43</sup>

§ 123. If there shall be no collector's office at the place where any articles shall be laden, nor at the place of their delivery, nor at any intermediate place, the master of the boat shall, within ten days after the delivery of such articles, exhibit the bill of lading thereof to the collector whose office shall be nearest to the place of such delivery, and shall pay to such collector the tolls due on such articles; and every master who shall omit to exhibit such bill, and to pay such tolls, within the period so limited, shall, for every offence, forfeit the sum of twenty-five dollars.<sup>43</sup> To whom to be exhibited.

§ 124. Every master of a boat navigating a canal, who shall omit to deliver a true bill of lading to any collector when required, or shall deliver any articles mentioned in a bill of lading, at a place beyond that to which they shall be cleared, shall forfeit the sum of twenty-five dollars. Every person who shall sign or deliver to any collector, a false bill of lading, shall pay, on all property omitted in such false bill, treble the toll usually charged on such property, to any collector who shall be satisfied of such omission, for the whole distance such property is conveyed on a canal.<sup>43</sup> Penalty.

§ 125. Every person who shall knowingly sign or deliver a false bill of lading, shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment, or both: the fine not to be less than three times the value of any property omitted in such bill, and the imprisonment not to exceed two years.<sup>43</sup>

§ 126. Every collector receiving a bill of lading, may require the master exhibiting it, to verify it by his oath, which such collector is authorised to administer. Bills how to be verified.

§ 127. Each boat navigating the canals shall have a separate clearance, and no part of the cargo of any boat shall be cleared to a place, beyond that, to which the boat is cleared.<sup>44</sup> Clearances.

§ 128. No boat shall proceed beyond the place to which it shall be cleared, nor unlade any article of its cargo before, or after, its arrival at the place for which such articles are cleared, nor proceed beyond such place, until the master thereof, shall have delivered the clearance of such boat or articles, to the collector, at the place for which they are cleared.<sup>44</sup> Regulations of boats.

**TITLE 9.**  
*Regulations of boats.*

§ 129. If there be no collector at such place, the master shall deliver the clearance of the boat or articles, to the last collector whose office shall be passed by the boat in the order of its voyage, and shall receive a permit from such collector, to proceed to the place to which they are cleared.<sup>45</sup>

*Penalty.*

§ 130. Every master who shall omit to deliver a clearance to the collector, to whom the same ought to be delivered, shall forfeit the sum of twenty-five dollars.<sup>46</sup>

*Collectors to give copies.*

§ 131. Every collector issuing any clearance, or in whose office any clearance is on file, shall, whenever requested, give a certified copy thereof, with the additional cargo entered thereon, and the several endorsements of other collectors.<sup>46</sup>

*Effect of copy; fees for making.*

§ 132. Such certified copy shall have the same validity and effect, as the original clearance, of which it is a copy; and every collector shall demand and receive for such certified copy, not exceeding two folios, from the person requesting the same, six cents, and twelve and a half cents for all copies exceeding two folios, and shall account to the commissioners of the canal fund, for all sums which shall be so received, at such time, and in such manner, as the comptroller shall direct.<sup>46</sup>

*Tonnage.*

§ 133. The tonnage of all articles conveyed on either of the canals, on which toll may be charged by the ton, shall be ascertained and charged, according to the real weight of such articles.<sup>47</sup>

*Articles when to be weighed.*

§ 134. Whenever a difference as to the amount of tolls to be paid, shall arise between a collector of tolls and the master of a boat, the collector shall detain the articles on which the tolls are charged, and the boat containing them, and shall weigh, count, or measure, the articles, as the case may require; and if it shall be found, that their weight, number, or feet, exceed the amount contained in the bill of lading thereof, the collector shall charge tolls, according to the weight, number, or feet thus found.<sup>47</sup>

*Expense how paid.*

§ 135. In every such case, the master shall pay to the collector the expense of such weighing, counting or measuring, at the rate of twenty-five cents for every ton weighed; of five mills a-piece, of articles paying toll by the number; and of five cents for each hundred feet, of articles paying toll by the foot; and such expenses shall be chargeable on such articles, and on the boat containing them.<sup>47</sup>

*Payments how enforced.*

§ 136. The master of every boat shall be liable for the payment of tolls and expenses; and it shall be the duty of every collector to detain all articles on which tolls or expenses are chargeable, on each boat containing them, until such tolls or expenses shall be paid.

(45) Laws of 1827, p. 224, § 16. (46) *Ib.* § 17. (47) Laws of 1830, p. 187, § 18. (48) *Ib.* p. 199, § 18.

§ 137. If such payment be refused, the collector shall distrain so much of the property detained as shall be sufficient to satisfy the charges thereon; and at the expiration of eight days, if such charges shall remain unpaid, he shall expose to sale the property distrained, at his usual place of receiving tolls, and shall sell the same at public auction, to the highest bidder.<sup>49</sup>

ART. 7.  
ib.

§ 138. Any surplus arising from the sale, after the payment of the charges and of the costs of distress and sale, shall be paid on demand, to the master of the boat, or the owner of the property distrained.<sup>49</sup>

Surplus.

§ 139. Every master of a boat which usually runs on the canal night and day, or which belongs to any regular line of packet or freight boats, shall, during each navigable season on the canal, as often at least as once in thirty days, and oftener, if required by the canal board, and under such regulations as that board shall establish, deliver to some collector of tolls a statement of passengers, and shall verify the same under oath, to be administered to him by such collector; and at the same time shall pay to such collector, the lawful tolls on the passengers mentioned in the statement.<sup>50</sup>

Statements of passengers certain cases

§ 140. The first statement so delivered, shall contain the names of all the passengers conveyed in such boat, from the commencement of its running in that season, until the delivery of the statement, and the distance to which each passenger was carried; and each subsequent statement shall contain the names of all the passengers, and the distance to which each was carried in such boat, since the time embraced in the last previous statement.<sup>50</sup>

Contents of first statement.

§ 141. If it shall happen, that during the time for which a statement is required, no passenger shall have been conveyed in such boat, the master thereof shall present to some collector an affidavit to be sworn to before such collector, that no passenger has been conveyed in such boat, during the time specified therein.<sup>50</sup>

When affidavit to be made.

§ 142. If it shall happen that different persons have been masters, or had charge of any boat, for the time during which the statement or affidavit above mentioned is required, each person shall furnish such statement or affidavit for such portion of the time, as such boat was under his control, or management.<sup>50</sup>

Different masters.

§ 143. The several collectors shall transmit to the comptroller, the several affidavits and statements relative to passengers, received by them; and every master who shall neglect to furnish the affidavit or statement, or to pay the toll on any passengers, by law required, and every owner of such boat, when such neglect occurred, shall for each offence forfeit the sum of twenty-five dollars.<sup>51</sup>

Collector's duty; penalty on master &c.

(49) Laws of 1820, p. 180, § 18. (50) Laws of 1827, p. 226, § 23. (51) Ib. §. 24.

**TITLE 9.** **§ 144.** The commissioners of the canal fund may, in their discretion, prohibit such boat from receiving a clearance and navigating the canals, until such statement or affidavit be furnished, and the tolls paid.<sup>52</sup>

Further penalty.

**Collectors to acknowledge statement, &c.** **§ 145.** Every collector receiving such a statement, or affidavit, relative to passengers, shall give to the person from whom he received the same, a written acknowledgment thereof.<sup>53</sup>

Evidence of neglect to make statement.

**§ 146.** A certificate made by the comptroller, under the seal of his office, after thirty days from the time when such a statement or affidavit ought to be made, that no statement or affidavit in respect to any particular boat, for the time particularly stated therein, has been received at his office, shall be presumptive evidence, that no such statement or affidavit has been made by the master of such boat for the time specified in the certificate.<sup>54</sup>

Tolls on passengers in certain boats

**§ 147.** Every master or person having charge of any boat navigating a canal, which does not usually run in the night time, or which does not belong to any regular line of packet or freight boats, shall pay the lawful tolls on all passengers conveyed in such boat, in the same manner as he is required to pay toll on property conveyed; and every such master who shall omit to give a just and true account of such passengers, to the collector, at the place where such passengers shall be received in such boat; or at the office next in order in the course of the voyage, after receiving the same, or who shall refuse to verify the same under oath, when required by any collector, or to pay the toll on such passengers, shall for every offence forfeit the sum of twenty-five dollars.<sup>54</sup>

Commutation for tolls.

**§ 148.** The commissioners of the canal fund may, in their discretion, receive from the owners of any boat a specified sum by the year for a license to carry passengers therein, as a commutation for toll upon passengers.<sup>55</sup>

How paid.

**§ 149.** Such commutation shall be paid at such time and in such manner as the commissioners may prescribe, and no statement or affidavit relative to conveying passengers, shall be required from the master of any boat so licensed.<sup>55</sup>

Clerks of collectors.

**§ 150.** Any clerk duly authorised by a collector may perform all the duties, and exercise all the powers legally appertaining to such collector, in his absence, and the collector shall be responsible for the acts of such clerk.

Births of boats.

**§ 151.** It shall be the duty of every collector of tolls, and if there be no collector present, of every superintendent, to assign births to all boats when loading or unloading at any landing place on a canal, whenever disputes shall arise concerning the same.<sup>56</sup>

(52) Laws of 1837, p. 226, § 24. (53) *Ib.* §. 25. (54) *Ib.* § 22. (55) *Ib.* § 22. (56) *Ib.* 226, § 40.

§ 152. No float shall move on any canal faster than at the rate of ART. 7. four miles an hour without a permission in writing, signed by a majority of the canal commissioners; and for each violation of this provision the master shall forfeit the sum of ten dollars.<sup>57</sup> Speed of boats, &c.

§ 153. Where a boat used chiefly for the conveyance of persons, shall overtake any other float, not used chiefly for that purpose, it shall be the duty of the master of the latter to give to the former, every practicable facility for passing, and whenever it shall become necessary, to stop, until such passage boat shall have fully passed.<sup>58</sup> Preference in passing.

§ 154. Where any float, in passing on either of the canals, shall meet with any other float, it shall be the duty of the master of each, to turn out to the right hand, so as to be wholly, on the right side of the centre of the canal.<sup>59</sup> Boats meeting.

§ 155. Where any floats shall approach any place on either of the canals, which is less than thirty feet wide on the surface, or which will not safely permit their passing, it shall be the duty of the master of the float going from the navigable waters of the Hudson river, to stop at such distance from such narrow place, as may be convenient for the float going towards such navigable waters to pass through such narrow place, and there to wait until such passage is effected.<sup>59</sup>

§ 156. Every master or boatman violating any provision of the three sections immediately preceding, shall, for each offence, forfeit the sum of ten dollars.<sup>60</sup> Penalties.

§ 157. Every float, within one hundred yards of a lock, if on the same level that the water in the lock then is, shall be permitted to pass the lock, before any other float not on the same level.<sup>60</sup> Passing locks.

§ 158. If, on the arrival of two or more floats at any lock, a question shall arise between their respective masters as to which shall be first entitled to pass, such question shall be determined by the lock-keeper, and each float shall be passed in the order and manner in which he shall direct.<sup>60</sup> Questions.

§ 159. Every master, owner or navigator of any float refusing to conform to such determination of the lock-keeper, or detaining or unnecessarily hindering the passage of any float, through a lock, in violation of any provision of the two last sections, shall for each offence, forfeit the sum of twenty-five dollars.<sup>60</sup> Penalties.

§ 160. No person navigating either of the canals, shall be permitted to use therein any setting pole or shaft, pointed with iron or other metal; and if any person shall offend against this section, he shall, for every such offence, forfeit the the sum of twenty-five dollars.<sup>61</sup> Setting poles, &c.

(57) Laws of 1822, p. 226, § 4. (58) Laws of 1820, p. 126, § 10. (59) *Ib.* § 9. (60) Laws of 1827, p. 222, § 31. (61) Laws of 1820, p. 126, § 16.

## TITLE 9.

Knife on  
bow.

§ 161. No covered or decked boat, shall navigate any canal without a knife or sharp metallic instrument, so affixed upon the stem or bow of the boat, as to cut apart any tow rope, which otherwise might pass over such bow.<sup>62</sup>

Penalty.

§ 162. Every owner or master of such boat, who shall neglect or refuse to comply with the above provision, shall, for each offence, forfeit the sum of twenty-five dollars.<sup>62</sup>

Obstructing,  
&c.

§ 163. Every person who shall obstruct the navigation of any canal, by the improper mooring, management or conduct, of any boat or floating thing, shall, for every such offence, forfeit the sum of twenty-five dollars.<sup>63</sup>

Ib.

§ 164. If any person shall obstruct the navigation of any canal, by sinking any vessel, timber, stone, earth or other thing, to the bottom thereof, or by placing any obstruction on the towing path thereof, or on the bank opposite the towing path, he shall forfeit the sum of twenty-five dollars.<sup>64</sup>

Boat, &c. to  
be seized.

§ 165. It shall be the duty of every canal commissioner, collector, superintendent or agent, employed on the canals, to seize all boats, rafts, logs, or any floating or sunken thing, which may be found in a canal; or any article not under the care or charge of any person, so found on the tow path thereof; and to sell the same at public vendue, after giving ten days' written notice of such sale, at two public places nearest to the place where such boat, logs, floating or sunken thing, may be found.<sup>65</sup>

Owner may  
stop sale.

§ 166. If the owner of any article so seized, shall appear and claim the same, before the time of sale, and pay the cost of seizure and expense of removal, no such sale shall take place.<sup>66</sup>

Avails, how  
accounted  
for.

§ 167. The avails of such sale shall be accounted for, by the officer making the same, if he be not a collector, to the nearest collector, who shall make returns thereof to the commissioners of the canal fund. If the sale be made by a collector, he shall account for the avails thereof, to the commissioners of the canal fund.<sup>65</sup>

When paid  
to owners.

§ 168. After such sale shall have been made, and the proceeds thereof paid to the commissioners of the canal fund, such commissioners may, on the application of the owners, and due proof of ownership, pay over such proceeds, after deducting the forfeiture, and all costs and reasonable charges thereon.<sup>65</sup>

Taking rails,  
&c. penalty.

§ 169. If any boatman, or person on board of any boat on any canal, shall take, without right, any rails, boards, planks or staves, from the banks or vicinity of the canal, the master of the boat shall forfeit,

(62) Laws of 1827, p. 222, § 7. (63) Laws of 1837, p. 221, § 3. (64) Laws of 1839, p. 186, § 6. (65) Laws of 1827, p. 221, § 4.



to the owner, treble the value of the property taken, and the possession of such property on board the boat, shall be presumptive evidence of such taking.<sup>66</sup> ART. 8.

§ 170. Any person or boatman, who shall violate the provisions of the last section, shall forfeit twenty-five dollars to any person who will prosecute therefor.<sup>67</sup>

§ 171. Every penalty and forfeiture, prescribed by this Article, and which is declared to be recoverable against the owner, master, boatman, navigator, or other person, having charge of any boat or other float, when incurred, shall be chargeable on such boat or float, and a suit for the recovery thereof, may be brought against any person, being in the possession, or having the charge, of such boat or other float, at the time such suit is commenced.<sup>68</sup> Boat liable for penalties.

§ 172. When any suit shall be prosecuted for any such penalty or forfeiture, the magistrate issuing the process, by a clause to be inserted therein, may direct the officer executing the same, to detain such boat or float, and the furniture and horses belonging thereto, until the suit shall be determined, or until adequate security shall be given for the payment of any judgment that may be recovered.<sup>69</sup> Boat may be detained.

§ 173. If such security shall be given, or the defendant in such suit shall prevail, the magistrate shall order the boat or other float and property detained, to be released; but if no such security shall be given, and a judgment shall be recovered for such penalty or forfeiture, and the same, together with the costs, shall not be immediately paid, an execution shall be issued, under which the property so detained, may be sold, in like manner, as if the judgment had been obtained against the owner thereof.<sup>69</sup> When released; when sold.

#### ARTICLE EIGHTH.

##### *Regulations and Penalties concerning the Protection and Maintenance of the Canals.*

Sec. 174. Where new roads cross canal, bridge to be erected and kept in repair at expense of town in which situate.

175. Sanction of canal commissioner to model of bridge, must be obtained.

176. Penalty of fifty dollars for proceeding to build bridge without such consent.

177. No wharf, &c. constructed on canal, without consent of a commissioner.

178. Penalty of twenty-five dollars for constructing wharf, &c. without permission.

179. Penalty for wantonly opening any lock-gate, &c. destroying any bridge, &c.

180. Imprisonment in jail or state prison, for wilfully destroying any lock, &c.

181. Penalty of five dollars for driving or riding any horse, &c. on tow path, except in towing boats, &c.

182. Two hundred and fifty dollars penalty for drawing water from canal at Lockport.

§ 174. In all cases where a new road or public highway, shall be laid out by legal authority, in such direction as to cross the line of Bridges

(66) Laws of 1837, p. 228, § 33. (67) Laws of 1823, p. 224, § 1 & 2, chap. 156, April 9, 1823. (68) Laws of 1837, p. 227, § 23 & 29.

## TITLE 9.

any canal, and in such manner as to require the erection of a new bridge over the canal, for the accommodation of the road, such bridge shall be so constructed, and forever maintained, at the expense of the town in which it shall be situated.<sup>69</sup>

**Ib.** § 175. No bridge shall be constructed across any canal, without first obtaining for the model and location thereof, the consent in writing of one of the canal commissioners, or of a superintendent of repairs, on that line of the canal which is intersected by the road.<sup>69</sup>

**Penalty.** § 176. Every person who shall undertake to construct or to locate such bridge without such consent, and shall proceed therein, so far as to place any materials for that purpose, on either bank of the canal or on the bottom thereof, shall forfeit the sum of fifty dollars; and either of the commissioners, superintendents or engineers, shall be authorised to remove all such materials, as soon as they are discovered, wholly without the banks of the canal.<sup>69</sup>

**Wharves,  
basins, &c.**

§ 177. No person, without the written permission of a canal commissioner, shall construct any wharf, basin or watering place, on any canal, or make or apply any device whatever, for the purpose of taking water from a canal; and every wharf, basin, watering place or device, constructed with such permission, shall be held during the pleasure of the canal commissioners, and be subject to their control.<sup>70</sup>

**Penalty.**

§ 178. Every person who shall construct any such wharf, basin, watering place or device, without permission, or who shall omit to conform to the directions of the commissioner granting such permission, shall for each offence forfeit the sum of twenty-five dollars; and in every such case, the canal commissioners may remove or destroy the construction illegally made, at the expense of the person making it.<sup>70</sup>

**Injuries to  
gates, bridges,  
or, fences.**

§ 179. Every person who shall wantonly open or shut, or cause to be opened or shut, any lock-gate, or any puddle-gate or culvert-gate, thereof, or any waste-gate, or by any means prevent, or attempt to prevent, the free use of any such gate; and every person who shall wantonly break, throw down, or destroy any bridge, or fence, on a canal, shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment; the fine for each offence, not to exceed one hundred dollars, nor the imprisonment six months.<sup>71</sup>

**Injuries to  
locks, &c.**

§ 180. Every person who shall wilfully break, throw down, or destroy any lock, bank, waste-weir, dam, aqueduct or culvert, on a canal, shall, upon conviction of such offence, be sentenced to imprisonment in the county jail or state prison, at the discretion of the court by whom he shall be tried. The imprisonment shall not be for less than one year, if in the county jail, nor for more than three years, in the state prison.<sup>72</sup>

(69) Laws of 1820, p. 133, § 1. (70) *Ib.* p. 136, § 11. (71) *Ib.* p. 135, § 7. (72) *Ib.* p. 136, § 8.

§ 181. Every person who shall lead, ride, or drive any horse, ox, ass, mule, or other cattle, upon the towing-path of a canal, or upon the bank opposite to such towing-path, shall, for each offence, forfeit the sum of five dollars; but this section shall not be construed to extend to persons towing boats or other floats, or conveying articles unladen, or to be laden, from, or to, a canal.<sup>73</sup>

ART. 2.  
Driving horses on towing-path, &c.

§ 182. Any person who shall open any gate, sluice, slide or other passage, which now is or hereafter may be constructed to draw water round the locks at Lockport, for the purpose of drawing water from the canal to any mill or machinery of any kind whatsoever, or for any other purpose than the uses of the canal, shall, for every such offence, forfeit the sum of two hundred and fifty dollars.<sup>74</sup>

Drawing water at Lockport.

ARTICLE NINTH.

*Miscellaneous Provisions of a General Nature.*

- 183. Agents, toll-collectors, &c. discharged from employment, to deliver up any house, &c. occupied by them, &c.
- 184. In case of refusal to make such delivery, justice of peace to issue warrant to constable, directing him to take possession.
- 185. Who ineligible to office of superintendent, lock-keeper, &c.
- 186. Canal commissioners and members of canal board, not to be interested in boats, &c.
- 187. Collectors, &c. exempt from military duty, and serving on juries.
- 188. Suits for penalties, &c. under this Title, to be in name of people.
- 189. If penalty not over fifty dollars, justice has jurisdiction.
- 190. Meaning of the terms "float" and "master," under this Title.
- 191. Execution against property or person, of any one against whom judgment for penalty may be recovered.
- 192. Persons violating provisions of this Title, liable for damages and for penalty.
- 193. Comptroller to prepare forms of clearances, &c. and send them to officers on canal.
- 194. How much water to be taken into a level.
- 195. How waste-weirs and gates to be constructed.

§ 183. It shall be the duty of every agent, toll collector, lock-keeper or superintendent, employed on any canal, and occupying any house, office, building, or land, belonging thereto, who shall be discharged from his employment; and of the wife and family, of every such person, who shall die in such employment; to deliver up the possession of the premises so occupied, and of all books, papers, matters or things belonging to the canals, acquired by virtue of his office, within seven days, after a notice shall have been served for that purpose, by the acting canal commissioner.<sup>75</sup>

Agents to deliver up property, &c.

§ 184. In case of a refusal or neglect to make such delivery, in either of the above cases, it shall be the duty of any justice of the peace, in the county where such premises shall be situate, upon application, to issue his warrant under his hand and seal, ordering any constable or other peace officer, with such assistance as may be necessary, to enter upon the premises so occupied, in the day-time, and remove therefrom all persons found in possession thereof, and to take

Proceedings to compel delivery.

(73) Laws of 1820, p. 183, § 2. (74) Ib. 1826, p. 364, § 37. (75) Ib. 1820, p. 187, § 12.

**TITLE 9.** into his custody all books, papers, matters and things there found, belonging to the canals, and to deliver the same to the acting canal commissioner, or his authorised agent; and the officer to whom such warrant shall be delivered, shall execute the same according to its purport.<sup>76</sup>

Who ineligible as collector, &c.

§ 185. No person owning any hydraulic works dependent upon the canals for their supply of water, or who shall be employed in or connected with any such works, or who shall be engaged in transporting property upon the canals, or who shall own, or be interested in, any boat, navigating the same, shall be employed as a superintendent, lock-keeper, collector of tolls, weigh-master, or other agent upon the canals.<sup>77</sup>

Certain officers not to be interested in boats.

§ 186. No canal commissioner, or any member of the canal board, shall own, or be interested in, any hydraulic works dependent on the canals for their supply of water, or own, or be interested in, any line of boats, regularly navigating the canal; and if any commissioner or member of the canal board, shall, at any time after the expiration of six months after this Chapter becomes a law, be, or become so interested, he shall forfeit his office.

Collectors, &c. exempt from certain duties.

§ 187. Every collector of tolls, the clerks of each collector, not exceeding two, having the collector's certificate that they are actually employed by him, and all superintendents of repairs, lock-tenders, inspectors of boats and weigh-masters, shall be exempted from the performance of military duty, and jury service, while actually engaged in their respective employments on the canals, while the same are navigable.<sup>78</sup>

Penalties how recovered.

§ 188. All suits for penalties and forfeitures imposed in any Article of this Title, or for damages, in behalf of the state, shall be prosecuted in the name of the people of this state, by such persons and in such manner as the commissioners of the canal fund, in their regulations, shall direct; and all monies recovered therein, shall be accounted for and paid over to such commissioners.<sup>79</sup>

Before whom.

§ 189. Every such penalty or forfeiture, not exceeding the sum of fifty dollars, may be recovered before any justice of the peace in any county.<sup>79</sup>

Definition of "float" and "master."

§ 190. The term "float," as used in this Title, shall be construed to embrace every boat, vessel, raft, or floating thing, navigated on the canals, or moved thereon, under the direction of some person having the charge thereof; and the term "master," as so used, shall be construed to apply to every person, having for the time, the charge, control, or direction, of any such float.

(76) Laws of 1820, p. 187, § 12. (77) *Ib.* 1826, p. 368, § 80. (78) *Ib.* 1827, p. 227, § 22. (79) *Ib.* § 28.

§ 191. If any person against whom any forfeiture shall be recovered under the provisions of this Title, shall not immediately pay the full amount of the judgment so obtained, the court by which such judgment shall be given, shall, without delay, issue an execution against his property or person, at the election of the party prosecuting the suit.

ART. 1.  
Executions  
for penalties.

§ 192. The imposition or recovery of any penalty or forfeiture, imposed for the violation of any provision of this Title, shall not be considered a bar to the recovery of any damages, resulting from such violation, to the state or to individuals.

Penalty no  
bar to dam-  
ages.

§ 193. The comptroller shall prepare the forms of all clearances, bills of lading, statements, and other papers necessary to be used under the provisions of this Title, and shall from time to time, transmit the same to the different officers and agents on the canal, for whose use they may be required.

Forms.

§ 194. No more water shall be taken into any level of either of the canals, than shall be sufficient to supply such level during the days of the greatest business, and also to supply any other level of the canal, or other public work of the state, dependent upon such level for a supply of water.

How much  
water to be  
taken.

§ 195. Every waste-weir upon the same level as either of the canals, shall be constructed, as nearly as may be consistent with the safety and convenience of the canals, of the same height, but in all cases so, as to leave a depth of at least four feet water in the level; and there also shall be constructed one waste-gate, as nearly opposite to the mouth of every feeder taken into the canal, as the convenient discharge of the water will permit.

Waste-weir.

## TITLE X.

### OF THE SALT SPRINGS.

ART. 1.—General provisions.

ART. 2.—Of the officers entrusted with the superintendence of the Onondaga salt springs.

ART. 3.—Of the general duties, powers and liabilities of the officers connected with the Onondaga salt springs.

ART. 4.—Regulations and penalties concerning the use of salt water, and the manufacturing of salt.

ART. 5.—Regulations and penalties concerning the inspection, packing and removal of salt; and the payment of duties.

ART. 6.—Miscellaneous provisions applicable to the Onondaga salt springs.

ART. 7.—Of the salt springs at Montezuma.

#### ARTICLE FIRST.

##### General Provisions.

§ 1. Salt springs, &c. to remain property of state.

2 A duty of 12½ cents upon salt manufactured in western district:

TITLE 10. Sec. 3. Salt manufacturers west of Seneca lake to make return and pay duty.

4. Two hundred and fifty dollars forfeiture for neglect.

Salt springs  
property of  
state.

§ 1. The salt springs belonging to this state, and the lands contiguous thereto, which may be necessary or convenient for their use, are to be and remain the property of the state; and the legislature can never sell or dispose of the same, nor of any part thereof.<sup>80</sup>

Duty on salt. § 2. There shall be paid and collected, upon all salt manufactured in any of the counties which, on the fifteenth day of April, one thousand eight hundred and seventeen, were included in the western district of this state, a tax or duty of twelve and a half cents per bushel; which duties shall continue to be appropriated as declared in the second Title of this Chapter.<sup>81</sup>

Ib. § 3. The duties on all salt manufactured in any of the counties west of the Seneca lake, shall be paid to the treasurer of the state; and it shall be the duty of the owner of every salt manufactory, in either of those counties, on the first days of July and January in each year, to make a just and true return to the comptroller, on oath, of all salt manufactured at such manufactory, during the six months next preceding such return, and then, to pay the duties thereon.<sup>82</sup>

Ib. § 4. Every such owner who shall neglect to make the return or pay the duties above provided, shall forfeit for every offence, to the people of this state, the sum of two hundred and fifty dollars.<sup>83</sup>

#### ARTICLE SECOND.

#### *Of the Officers entrusted with the Superintendence of the Onondaga Salt Springs.*

Sec. 5. Superintendence of salt springs vested in superintendent and inspector.

6 & 7. Superintendent to give bond; to be filed in comptroller's office.

8. Shall employ deputies, to reside in Salina, Geddes, Syracuse, and Liverpool.

9. Deputies to take oath and give bond.

10. Inspector to give bond; to be filed with comptroller.

11. To attend personally to his duties; may employ deputies.

12. Deputies to take an oath.

Officers. § 5. The care and superintendence of the salt springs, in the town of Salina, in the county of Onondaga, shall continue to be vested in the superintendent of the Onondaga salt springs, and the inspector of salt in the county of Onondaga, according to the provisions of this Title.<sup>83</sup>

Bond of su-  
perintendent

§ 6. Every person hereafter appointed to the office of superintendent of the Onondaga salt springs, shall, within thirty days after he shall receive notice of his appointment, and before he enters upon the execution of the duties of his office, execute a bond in the sum of thirty thousand dollars, to the people of this state, with not less than five

(80) Cons. art. 7, § 10. (81) Ib. Laws of 1817, p. 304, § 6 (82) Laws of 1832, p. 304, § 25. (83) The provisions of Art. 2, to Art. 6, both inclusive, were compiled, except where otherwise noted, from the act of the 21st of April, 1835; Laws of 1835, p. 492.

efficient sureties, to be approved of by the comptroller, whose appro-  
 priation shall be endorsed on the bond, conditioned, that such person  
 shall and will faithfully and honestly, execute and perform the duties  
 of the office of superintendent of the Onondaga salt springs, and in all  
 things comply with, and conform to, the several provisions and regu-  
 lations, that are or shall be established by law, concerning the office  
 and duties of such superintendent.

ART. 2.

§ 7. Such bond shall be filed in the office of the comptroller, and shall  
 be deemed to extend to the faithful execution of the duties of  
 the office of superintendent, by such person, until a new appointment  
 of superintendent be made, and a new bond given thereupon.

§ 8. The superintendent shall appoint and employ so many deputy-  
 superintendents as shall be necessary for the accommodation of the public,  
 one of whom at least shall reside in each of the villages of Salina, Geddes,  
 Syracuse, and Liverpool; and for all the acts of his deputies, the su-  
 perintendent shall be responsible. Every such appointment shall be  
 in writing, and shall be filed in the clerk's office of the county of  
 Onondaga.

§ 9. Each of the deputy-superintendents shall, before he enters  
 upon the duties of his office, take and subscribe the oath of office pre-  
 scribed by the constitution, and file the same in the clerk's office of  
 the county of Onondaga. He shall also give a bond, with sufficient  
 sureties, to the superintendent, in such sum as the superintendent  
 shall require, conditioned for the faithful discharge of his duties as  
 deputy-superintendent, and for the faithful and punctual payment to  
 the superintendent, of all monies which he shall from time to time  
 receive, as such deputy, and as often as the same shall be required of  
 him, by the superintendent.

§ 10. Every person hereafter appointed to the office of inspector  
 of salt in the county of Onondaga, shall, before he enters upon the  
 duties of his office, execute a bond to the people of this state, in the  
 sum of two thousand dollars, conditioned for the faithful performance  
 of all duties required of him by law, with sufficient sureties, to be ap-  
 proved of by the superintendent of the Onondaga salt springs. Such  
 bond shall be transmitted by the superintendent to the comptroller,  
 and be filed in his office.

§ 11. The inspector shall attend personally to the duties of his of-  
 fice, and shall appoint and employ so many deputies, for each of whose  
 acts he shall be responsible, as shall be necessary for the accommoda-  
 tion of the public, at least one of whom shall reside in each of the  
 said villages.

§ 12. The deputy-inspectors shall, before they enter on the duties of  
 their office, take and subscribe the oath prescribed by the constitution,  
 and shall file the same in the clerk's office of the county of Onondaga.

## TITLE 10.

## ARTICLE THIRD.

*Of the General Duties, Powers and Liabilities of the Officers connected with the Onondaga Salt Springs.*

I. *Joint duties, &c.*

- Sec. 13. To prescribe rules and regulations concerning the manufacturing and inspection of salt, &c.
14. Where no penalty prescribed for violating such rules, &c. officers may fix them, but at no more than 10 dollars.
15. Rules, &c. to be printed and posted up.
16. Superintendent and inspector to report to legislature.
17. Superintendent and inspector to meet first Monday in every month.
18. In case of disagreement between superintendent and inspector, first judge of Onondaga to decide.

II. *Duties, &c. of each of the officers.*

19. Superintendent and inspector to keep an office in Salina, Geddes, Syracuse, and Liverpool.
20. Offices to be kept open from sunrise to sundown.
21. A list of deputy-superintendents to be posted in office of superintendent.
22. Officers connected with salt springs, and their deputies, to prosecute for penalties under this Title.
23. If suit wilfully commenced by any officer, party aggrieved may sue him in an action on the case.
24. Said officers to prosecute for trespasses upon lands of state at Salina.
25. No officer to be concerned in the manufacture of salt.
26. Superintendent and inspector liable to indictment for wilful neglect of duty,

III. *Duties, &c. of superintendent.*

27. Superintendent to be considered in possession of all the lands and property of the state at Salina.
28. Wrongful possessors of said lands to be removed by him.
29. He may sue for injuries to said lands, and for penalties imposed under this Title.
30. May lease buildings at Salina.
31. To lease such of the lands reserved for salt manufactories, as are wild and uncultivated.
32. Covenants to be contained in such lease.
33. Appraisement of improvements on lands so leased.
34. Duty of the superintendent at the expiration of such lease.
35. To receive all monies for duties, &c.
36. Commissions of superintendents on monies received, prescribed.
37. Superintendent to pay accounts against inspector; receipts how disposed of.
38. To keep books of entries, which shall be open for examination.
39. To deposit monthly, all balances of public monies.
40. To transmit certificates of deposit to comptroller.
41. To transmit to comptroller monthly accounts.
42. To transmit vouchers.
43. To transmit quarterly accounts.
44. On neglect to make reports or deposits, bond to be put in suit.
45. To provide suitable forms of bills and books of entries.
46. To publish and post up lists of penalties.
47. May take water from the Erie canal for a pump at Geddes.
48. Restriction upon the use of such water, &c.
49. To erect additional machinery, &c.
50. Accounts for repairs, &c. to be audited and paid.
51. He may take possession of lands, &c.
52. The proprietor of land so taken to be indemnified.
53. Damages to be paid by superintendent.
54. Superintendent to take surplus water from Erie canal, &c.
55. Duty of canal commissioners to prevent failure of water.

IV. *Duties, &c. of the inspector.*

56. To inspect works and salt.
57. To keep a list of salt manufactories.
58. Manufactories, how numbered on such list.



- Sec. 59. Inspector or one of his deputies, to visit daily the manufactories.  
 60. If he discovers salt of a bad quality, he shall order it to be dissolved.  
 61. If not forthwith dissolved, inspector may destroy it.  
 62. No inspector or his deputy, to receive duties on salt.  
 63. Compensation of inspector; to be paid monthly.  
 64. His accounts, how settled.

ART. 3.

I. *Joint Duties, &c.*

§ 13. The superintendent and inspector, shall have power from time to time, to make and ordain such necessary rules and regulations, as they may deem expedient, concerning, Rules and regulations.

1. The manufacturing and inspection of salt, and the collection of duties thereon :

2. The manner and times, of receiving the salt water from the state reservoirs by the several manufacturers, and the mode of conducting such water to their several manufactories, and of securing it from waste by leakage or otherwise :

3. The daily examination, and reporting, by the inspector and his deputies, of the operation and extent of the several salt manufactories, so as to determine whether the quantity of salt from time to time inspected at each manufactory, is equal to the quantity actually manufactured thereat : And,

4. The loading of salt in bulk, on board of boats, to be transported upon the Erie canal.

And they may revoke and alter such rules and regulations at their pleasure.

§ 14. In all cases in which penalties for specific violations of such rules and regulations are not prescribed in this Title, it shall be lawful for the said superintendent and inspector, to prescribe penalties for violating such rules and regulations, to the amount of ten dollars for each offence, and no more. Penalties

§ 15. Such rules and regulations shall be printed, and posted up in all the offices of the superintendent and inspector, in each of the villages ; and shall, after one week from the time they are so posted, be binding upon all persons concerned. Rules how posted.

§ 16. The superintendent and inspector shall, on or before the fifteenth day of January, in each year, report to the legislature, the state of the manufacture of salt, and the situation of the public works, and recommend such further provisions and improvements, to aid the manufacture of salt, and facilitate the collection of the revenue, as in their opinion shall be necessary. Report to legislature.

§ 17. The superintendent and inspector, for the purpose of performing their joint duties, shall meet together at the principal office of the superintendent, on the first Monday of each month in every year. Monthly meeting.

§ 18. In case of a disagreement between the superintendent and inspector, in relation to any of their joint duties, it shall be the duty First judge of Onondaga when to attend.

**TITLE 10.** of the superintendent, to give a reasonable notice, in writing, to the first judge of the county of Onondaga, who shall meet with such superintendent and inspector, at such time and place as shall be designated in such notice, and when so convened, any two of them may determine the matter in difference between such superintendent and inspector; and for every day's attendance, when so required, such judge shall receive the sum of two dollars, to be paid by the superintendent, out of any monies in his hands belonging to the state.

## II. *Duties, &c. of each of the Officers.*

**Offices where kept.** § 19. The superintendent shall keep, in some convenient place, in each of the villages of Salina, Geddes, Syracuse, and Liverpool, an office with the words "Superintendent's Office," painted in large letters over the door; and the inspector shall in like manner, keep an office in each of the said villages, over the door of which shall be painted "Inspector's Office."

**When to be open.** § 20. The offices of the superintendent and inspector, in each of said villages, shall be kept open, from sunrise to sundown, every day except Sunday, and the fourth day of July; and all persons may resort, during office hours, to either of said offices, and examine the books of entry, kept by the superintendent or inspector.

**List of deputies.** § 21. A list of the names of the deputy-superintendents, shall be kept constantly posted, in some conspicuous place in the superintendent's office in each of the said villages, for the examination of any person wishing to examine the same; and a list of the deputy-inspectors, shall in like manner be kept posted, in each inspector's office.

**Suits for penalties.** § 22. It shall be the duty of each of the officers connected with the salt springs, and each of his deputies, to prosecute for all penalties imposed or authorised by this Title, if the commission of any offence punishable by a penalty, shall come to his knowledge, either by his own examination or observation, or by information of any other person furnishing satisfactory proof to such officer.

**Id.** § 23. If any suit for any penalty or forfeiture prescribed in this Title, or by virtue of the powers given herein, shall be wilfully and knowingly commenced, without probable cause, by any such officer, he shall be liable to the party aggrieved, in an action of trespass on the case, for a malicious prosecution, and to an indictment for a misdemeanor.

**Id.** § 24. It shall be the duty of each of the said officers, and of their respective deputies, to prosecute all persons who shall knowingly commit a trespass upon any of the lands belonging to this state, in the town of Salina, either by cutting or removing any trees, wood, timber, or poles, or by intruding thereon; or who shall wilfully do any damage to any of the property belonging to this state.

§ 25. Neither of the officers connected with the salt springs, or their deputies, shall be in any way concerned in the manufacturing, or selling, of salt, or have any interest whatever, directly or indirectly, in any salt manufactory or erection for manufacturing salt, in the town of Salina, or in the profits of any such manufactory.

ART. 3.  
Prohibition upon officers.

§ 26. The superintendent and inspector shall respectively be liable to indictment and punishment, as for a misdemeanor, for any wilful neglect of duty, or for any mal-practice, in the discharge of the duties of their offices.

Liable to indictment.

III. *Duties, &c. of the Superintendent.*

§ 27. The superintendent shall be deemed in possession of all the lands, wood, timber, trees, buildings, erections, pumps, and machinery of every kind, and of all water-courses, conduits, wells, aqueducts, springs, and all other property belonging to the people of this state, within the town of Salina; and he shall have the charge, government and management, of the same, under such rules, orders, and regulations, as from time to time shall be adopted by the legislature, and shall superintend and have charge of the salt water, and the delivery thereof.

To have charge of lands and property.

§ 28. Whenever any person shall be in possession of said lands, or of any part thereof, without proper authority or right, it shall be the duty of the superintendent, to cause such person to be removed from such lands.

To remove wrongful possessor.

§ 29. The superintendent may also maintain, in his name of office, any suitable action for the recovery of damages for any injury to such lands or property, according to the nature of such injury; and all suits, for penalties or forfeitures imposed in this Title shall be in the name of office of the superintendent.

To bring suits.

§ 30. The superintendent may lease any of the buildings in the town of Salina, belonging to this state, from year to year, upon such rents as he may deem proper.

May lease buildings.

§ 31. It shall be the duty of the superintendent, to lease to any person whom he may believe to be of sufficient ability, to perform the covenants specified in the next section, and who shall apply therefor, any part of the lands reserved for the manufactory of coarse salt, that are wild and uncultivated, for such term, as in his opinion, shall be a full compensation for the expenses of draining, ditching, clearing and fencing such lands, and reducing them to a good state of cultivation.

And lands.

§ 32. Every lease so executed, shall contain proper covenants, on the part of the lessee, to the following effect:

Covenants to be inserted in lease.

1. That such lessee will, within some short period, to be expressed in the lease, reduce the land so leased to him, to cultivation, in the manner above provided.

**TITLE 10.** 2. That in case such land, or any part thereof, shall be located by any individual or company, for the manufacturing of coarse salt, the right of such lessee, to the land so located, shall cease, on the payment to him, or his assigns, by the person or company making the location, of the value of the improvements, except buildings made on such land, to be appraised by the superintendent and inspector.

Appraisal.  
ment.

§ 33. Whenever an appraisal shall be made of any such improvements, pursuant to the covenants contained in any such lease, the appraisal shall not exceed the sum of two dollars an acre for such improvements.

Duty at expi-  
ration of  
lease.

§ 34. In case any land so leased shall not be located for manufacturing coarse salt, before the expiration of the lease, the superintendent shall then rent the same, from year to year, at such rent as to him may appear reasonable.

To receive  
monies.

§ 35. The superintendent shall receive all monies payable to this state, for all rents, duties, fines, or penalties specified in this Title, or in any manner arising from the salt springs, or other property of this state, in the town of Salina.

Commis-  
sions.

§ 36. He shall be entitled to a commission of two per cent. upon all sums received by him, until the gross amount of monies received during any one year, shall be one hundred thousand dollars; and one per cent. upon all sums above one hundred thousand dollars received by him in the same year; which shall be in full for all the services of the superintendent, and his deputies, clerks, or assistants.

To pay ac-  
counts.

§ 37. It shall be the duty of the superintendent to pay, on the order of the inspector, out of any monies in the hands of such superintendent, belonging to the state, all such accounts as shall have been audited and allowed by the inspector. The superintendent shall take duplicate receipts for every such payment, one of which shall be kept by him as his voucher, and the other forthwith forwarded by him to the comptroller of this state.

To keep  
books.

§ 38. The superintendent shall keep in each of his offices, regular books of entries, in which all his accounts and transactions shall be entered. Such book shall be open for the examination of all persons wishing to examine the same, during office hours.

To deposit  
monies re-  
ceived.

§ 39. It shall be his duty, on the last Monday of every month, or within one week from that time, to deposit in one of the banks in the town of Utica, to the credit of the treasurer of this state, all monies which he shall have received for rents, duties, fines, penalties, or otherwise, deducting therefrom his commissions, and all sums which he shall from time to time pay out, pursuant to any of the provisions of this Title.

§ 40. He shall take duplicate certificates of such deposits from the bank, one of which he shall forthwith forward by mail to the comptroller of this state. ART. 3.  
ib.

§ 41. It shall be the duty of the superintendent, on the first Monday of every month, to transmit to the comptroller of this state, a monthly report or account, stating, up to the last Monday of the preceding month, and in such form as shall from time to time be directed by the comptroller, Monthly report to comptroller.

1. The gross amount of the duties on salt, accrued and collected in the town of Salina, during the previous month.
2. The gross amount received by such superintendent during such previous month, from all other sources.
3. The amount of all payments made by him during such month ; and,
4. The amount of his commissions.

§ 42. The superintendent shall also transmit to the comptroller with every such statement, his vouchers for each payment charged therein.

§ 43. It shall be the further duty of the superintendent, at the close of every quarter, or within ten days thereafter, to transmit to the comptroller, a quarterly account of such previous quarter, in such form as shall have been prescribed by the comptroller ; with which account shall be transmitted the original books of entries, showing the quantity of salt daily inspected, or copies of such books. Quarterly accounts.

§ 44. If at any time the superintendent shall neglect to make such monthly or quarterly returns, or to make such monthly deposits, or to transmit the certificate of such deposits to the comptroller, as herein before directed, it shall be the duty of the comptroller, to order the bond of the superintendent to be put in suit, for the recovery of any monies which may be in his hands, belonging to the state. Penalty.

§ 45. It shall be the duty of the superintendent to provide suitable blank inspection bills, and books of entry, and blank returns, for himself and the inspector. Blank bills, &c.

§ 46. It shall be the duty of the superintendent, to cause to be printed and published, in a handbill or sheet signed by him, a list of all the penalties imposed, by this Title, and by the rules, ordinances and regulations made in pursuance thereof ; and to cause the same to be posted up at all the most public places in the town of Salina, and on the roads leading thereto, so far as the same may be conveniently done, for the information of all persons concerned therein. List of penalties to be published.

§ 47. The superintendent, with the consent of the canal commissioners, may take from the Erie canal at Geddes, water sufficient to carry a pump, for the purpose of raising salt water from the reservoir Water from canal.

**TITLE 10.** 2. That in case such land, or any part thereof, shall be located by any individual or company, for the manufacturing of coarse salt, the right of such lessee, to the land so located, shall cease, on the payment to him, or his assigns, by the person or company making the location, of the value of the improvements, except buildings made on such land, to be appraised by the superintendent and inspector.

Appraisal.

§ 33. Whenever an appraisal shall be made of any such improvements, pursuant to the covenants contained in any such lease, the appraisal shall not exceed the sum of two dollars an acre for such improvements.

Duty at expiration of lease.

§ 34. In case any land so leased shall not be located for manufacturing coarse salt, before the expiration of the lease, the superintendent shall then rent the same, from year to year, at such rent as to him may appear reasonable.

To receive monies.

§ 35. The superintendent shall receive all monies payable to this state, for all rents, duties, fines, or penalties specified in this Title, or in any manner arising from the salt springs, or other property of this state, in the town of Salina.

Commissions.

§ 36. He shall be entitled to a commission of two per cent. upon all sums received by him, until the gross amount of monies received during any one year, shall be one hundred thousand dollars; and one per cent. upon all sums above one hundred thousand dollars received by him in the same year; which shall be in full for all the services of the superintendent, and his deputies, clerks, or assistants.

To pay accounts.

§ 37. It shall be the duty of the superintendent to pay, on the order of the inspector, out of any monies in the hands of such superintendent, belonging to the state, all such accounts as shall have been audited and allowed by the inspector. The superintendent shall take duplicate receipts for every such payment, one of which shall be kept by him as his voucher, and the other forthwith forwarded by him to the comptroller of this state.

To keep books.

§ 38. The superintendent shall keep in each of his offices, regular books of entries, in which all his accounts and transactions shall be entered. Such book shall be open for the examination of all persons wishing to examine the same, during office hours.

To deposit monies received.

§ 39. It shall be his duty, on the last Monday of every month, or within one week from that time, to deposit in one of the banks in the town of Utica, to the credit of the treasurer of this state, all monies which he shall have received for rents, duties, fines, penalties, or otherwise, deducting therefrom his commissions, and all sums which he shall from time to time pay out, pursuant to any of the provisions of this Title.

§ 40. He shall take duplicate certificates of such deposits from the bank, one of which he shall forthwith forward by mail to the comptroller of this state. ART. 3.  
ib.

§ 41. It shall be the duty of the superintendent, on the first Monday of every month, to transmit to the comptroller of this state, a monthly report or account, stating, up to the last Monday of the preceding month, and in such form as shall from time to time be directed by the comptroller, Monthly report to comptroller.

1. The gross amount of the duties on salt, accrued and collected in the town of Salina, during the previous month.

2. The gross amount received by such superintendent during such previous month, from all other sources.

3. The amount of all payments made by him during such month ; and,

4. The amount of his commissions.

§ 42. The superintendent shall also transmit to the comptroller with every such statement, his vouchers for each payment charged herein.

§ 43. It shall be the further duty of the superintendent, at the close of every quarter, or within ten days thereafter, to transmit to the comptroller, a quarterly account of such previous quarter, in such form as shall have been prescribed by the comptroller ; with which account shall be transmitted the original books of entries, showing the quantity of salt daily inspected, or copies of such books. Quarterly accounts.

§ 44. If at any time the superintendent shall neglect to make such monthly or quarterly returns, or to make such monthly deposits, or to transmit the certificate of such deposits to the comptroller, as herein before directed, it shall be the duty of the comptroller, to order the bond of the superintendent to be put in suit, for the recovery of any monies which may be in his hands, belonging to the state. Penalty.

§ 45. It shall be the duty of the superintendent to provide suitable blank inspection bills, and books of entry, and blank returns, for himself and the inspector. Blank bills, &c.

§ 46. It shall be the duty of the superintendent, to cause to be printed and published, in a handbill or sheet signed by him, a list of all the penalties imposed, by this Title, and by the rules, ordinances and regulations made in pursuance thereof ; and to cause the same to be posted up at all the most public places in the town of Salina, and on the roads leading thereto, so far as the same may be conveniently done, for the information of all persons concerned therein. List of penalties to be published.

§ 47. The superintendent, with the consent of the canal commissioners, may take from the Erie canal at Geddes, water sufficient to carry a pump, for the purpose of raising salt water from the reservoir Water from canal.

TITLE 10.  
Prohibition.

§ 62. No inspector, or deputy-inspector, shall be allowed to receive any duties on salt, or be appointed or deputed to perform any duties, pertaining to the receipt of the public monies, in the town of Salina.

Compensation.

§ 63. The inspector of salt shall be paid at the end of each month, by the superintendent, for all salt inspected by him or his deputies, during such month, at the rate of three mills per bushel, for the salt so inspected, which shall be deemed a full compensation, for all the services required to be performed by such inspector.

Accounts.

§ 64. The account of such inspector, together with the bills of inspection, as vouchers for the amount thereof, shall, on the last Monday in every month, be delivered to the superintendent; and at the same time the original books of entries of such inspector, shall be produced and exhibited to the superintendent, who shall audit and allow the amount which shall appear to be due, and pay the same from any monies in his hands, belonging to the state.

#### ARTICLE FOURTH.

#### *Regulations and Penalties concerning the Use of Salt Water, and the Manufacturing of Salt.*

- Sec. 65. Salt manufacturers at Salina to pay two mills a bushel for the use of salt water.
66. Inspectors to keep account of the number of bushels inspected.
67. From such account amount due from manufacturer to be ascertained; amount due to be paid in two days after ascertained.
68. If not paid, superintendent to distrain upon and sell property in factory.
69. To give six days notice of sale.
70. In case of deficiency of water, manufacturers may sink additional wells.
71. Manufacturers so doing, not to pay duty of two mills.
72. Owners of manufactories may convey water to them through the lands of any individual or company.
73. Penalty for wilful injuries to any conduits, &c. through which the same may be conveyed.
74. Nothing to be put into the salt water, but what is allowed by regulations, &c.
75. Each manufacturer to keep one bittren-pan to each kettle used in making salt.
76. Manner of using such pans to be prescribed in general rules and regulations.
77. Penalty for not providing such pans, and for not complying with rules, &c. referred to in last section.
78. Inspector and his deputies to see whether pans are supplied.
79. They are to examine as to waste of water by leaks, &c. and if any found, to order them stopped.
80. If order not complied with, communication between manufactory and reservoir to be stopped.
81. \$100 penalty for opening communication after stopped.
82. Inspector and his deputies to examine main conduits, &c.
83. In case any leak, &c. found, communication with reservoir stopped until water prevented.
84. \$100 penalty for opening communication after stopped.
85. Manufacturers of fine salt to have two cisterns attached to manufactory.
86. If not provided, manufacturer not to receive water from state reservoirs.
87. For what acts of owner, operations of manufactory may be suspended.
88. Penalty for putting it in operation during period of suspension.
89. Fine salt manufactories not to be erected, but upon that part of reservation already appropriated.
90. Persons desirous to engage in the manufacturing of coarse salt, may be incorporated.



- Sec. 91. Individuals or companies intending to erect works for the manufacturing of coarse salt, to apply to the commissioners of land-office.
92. Application to be on oath.
93. Commissioners to set apart lands.
94. Time within which works must be erected.
95. Case in which commissioners may again set apart such lands.
96. Individuals or companies may erect coarse salt works on their own lands.
97. Covenant to be entered into by such persons.
98. Persons owning land on the lateral canal, may lay out same into manufacturing lots, and erect manufactories.
99. Dimensions of such manufactories.
100. Persons burning or destroying any manufactory, &c. to be deemed guilty of felony.

ART. 4

§ 65. Every manufacturer of salt in the town of Salina, who shall receive his supply of salt water from the reservoirs supplied by the pumps belonging to the state, shall pay therefor to the superintendent, two mills on each bushel of salt manufactured by him.

Charge for salt water.

§ 66. For the purpose of ascertaining the amount due for the use of such water, the inspector shall, on the first Monday of January, April, July and October, in each year, make out an account, containing the number of bushels of salt, which shall have been inspected as manufactured at each manufactory, during the quarter immediately preceding, describing the manufactory by its number, and shall deliver a copy thereof to the superintendent.

Amount how ascertained.

§ 67. From such account, the superintendent and inspector shall ascertain the amount due from each manufacturer, for the use of salt water, by charging two mills a bushel for all salt inspected from such manufactory; and it shall be the duty of every such manufacturer, within two days thereafter, to pay to the superintendent, or to one of his deputies, at the superintendent's office, in the village nearest to such manufactory, the amount so charged for the use of such salt water.

§ 68. In default of such payment, it shall be the duty of the superintendent, to enter the manufactory, on which the sums so charged shall not have been paid, and to distrain upon the kettles, pans, or other implements for manufacturing salt, and upon any other property found upon the lot belonging to such manufactory, and to sell the same by public auction, to satisfy the sum so charged, with the addition of twenty-five per cent., which shall be taken as a full indemnity for the expenses of such distress and sale.

Proceedings in case of default of payment.

§ 69. The superintendent shall give at least six days' notice of the time and place of such sale, by putting up an advertisement in three of the most public places in the village, where or nearest to which, the same shall be sold.

§ 70. In case there shall at any time be a deficiency of salt water in the state reservoirs, to supply all the manufactories of salt with salt water, the superintendent may permit any individual, or company of manufacturers, at their own expense, to sink any additional

When manufacturers may sink wells.

**TITLE 10.** wells for their own use, at such place as the superintendent shall designate, and to pump salt water for their own use, and to erect such reservoirs as may be necessary, at their own expense.

**lb.** § 71. The manufacturers so pumping salt water for their own use, shall not be liable to pay the duty of two mills on the bushel, to the state, as prescribed in the sixty-fifth section of this Title.

**Aqueducts and conduits.** § 72. For the purpose of carrying the salt water from the state reservoirs to any salt manufactory, now erected, or hereafter to be erected, agreeably to the provisions of this Title, the owner of such manufactory may enter upon the lands of any individual or company, and may carry the water across the same, by suitable and proper aqueducts or conduits, paying to the owner of any such lands, the damages which he may sustain thereby, to be appraised by the superintendent and inspector.

**Penalty for injuring them.** § 73. If any person shall wilfully injure any such aqueduct, by cutting, boring, or otherwise, or shall remove or displace any log, or penstock, plug, gate, trough, or spout, belonging to any such aqueducts, or conduits; or shall wilfully injure any cistern, reservoir, receiver, vat, or trough, belonging to any salt manufactory; he shall be deemed guilty of a misdemeanor, and on conviction, shall be fined the sum of fifty dollars; and he may also be sentenced to imprisonment for a term not exceeding three months. The injured party shall also be entitled to recover treble damages and costs, in a civil action against such person.

**Penalty for adulterating salt water.** § 74. No manufacturer of salt shall be allowed to put any article or ingredient into the salt water, either when in his cisterns, or whilst evaporating, other than such as shall, from time to time, be allowed and approved of by the superintendent and inspector, in the general rules and regulations which they shall adopt in relation thereto; and every person offending against any such rule or regulation, shall, for every such offence, forfeit the sum of fifty dollars.

**Bittern pans.** § 75. Each manufacturer shall keep one good bittern-pan, for each kettle or pan which he shall employ in the manufacturing of salt, for the purpose of removing the feculent matter during the process of making salt.

**How used.** § 76. It shall be the duty of the superintendent and inspector, in the general rules and regulations which they shall adopt, to regulate the manner of using such pans, and of removing the impurities contained in the salt water, during the process of manufacturing the same into salt, and the manner of cleansing the kettles and pans.

**Penalty if bittern pans not provided.** § 77. Every manufacturer who shall neglect to provide the full number of bittern-pans above required, shall, for each day's neglect, forfeit the sum of twenty-five cents for each pan which he shall

neglect to provide ; and for every day's neglect to comply with and obey the general rules and regulations, or any of them, referred to in the last section, he shall forfeit the sum of two dollars. ART. 4.

§ 78. It shall be the duty of the inspector and his deputies, in their daily examinations of the several salt manufactories, to ascertain and examine, whether the requisite number of bittern-pans are contained in each manufactory, and whether the regulations above mentioned are fully complied with. Duty of officers as to bittern pans.

§ 79. It shall also be their duty in their daily examinations, to examine particularly as to any leaks or waste of salt water from the cisterns attached to the several manufactories, or from the logs and conduits leading the water to the same ; and as to any leak or waste of salt water, either by negligence or design, whether the same be in the cisterns, logs or conduits, or in the use of water in the manufactory, or in letting the same into the cisterns, or in any other manner ; and to order such manufacturer, or any of his agents and servants who may be present, forthwith to stop such leak or waste. As to leaks and waste.

§ 80. In case such order shall not be complied with, as soon as may be practicable, the inspector or deputy shall stop all communication between such manufactory and the logs and conduits leading to the state reservoirs, so that no more salt water shall come to such manufactory, until the leak and waste be effectually prevented ; and such manufacturer shall, in addition, forfeit the sum of twenty-five dollars. Ib.

§ 81. Every manufacturer or other person who shall open the communication between such manufactory and the logs or conduits leading to the state reservoirs, without the consent of the inspector or of one of his deputies, or shall aid, assist, counsel, or advise in opening the same, without such consent, shall forfeit the sum of one hundred dollars. Ib. Penalty.

§ 82. It shall also be the duty of the inspector and his deputies, from time to time, to examine the main conduits or line of logs, conducting the salt water from the state reservoirs to the different sections of manufactories, or to individuals or companies, who receive their supply of salt water from the same conduits or line of logs. As to main conduits.

§ 83. In case any leak or waste of salt water shall be found in any such conduit or line of logs, the inspector shall forthwith report the same to the superintendent, who shall immediately thereupon stop all communications with the state reservoirs, and with such conduits or line of logs ; and such communication shall remain so stopped, until the inspector or one of his deputies shall make report to the superintendent, that such leak or waste is prevented. Ib.

## TITLE 10

*Penalty.*

*Il.*

§ 84. If any person, without the consent of the superintendent, shall open, or aid, assist, counsel or advise, in opening, the communication between the state reservoirs or any of them, and such line of logs or conduits when so stopped, he shall forfeit the sum of one hundred dollars.

*Cisterns.*

§ 85. Each manufacturer of fine salt, shall have two cisterns or reservoirs attached to, and adjoining his manufactory. Such cisterns or reservoirs shall be well made, and, as near as may be, free from leaks; and each of them shall be of sufficient capacity, to contain as much salt water, as can be boiled or evaporated in such manufactory, from the kettles or pans set therein, in two days.

*Penalty for not providing cisterns.*

§ 86. No manufacturer of fine salt, who shall neglect to provide such reservoirs or cisterns, shall be permitted to receive any salt water from the state reservoirs.

*Penalty for violating rules.*

§ 87. If any manufacturer of salt shall be found habitually neglecting any of the rules and regulations prescribed by the superintendent, inspector, and first judge of the county of Onondaga, or any two of them; or shall be in the habit of making bad salt; or if the quantity of salt inspected from his manufactory, shall be found materially less than is usually produced from a manufactory of the same capacity of kettles, for the time it was actually in operation; it shall be the duty of the superintendent and inspector, to suspend the right of such person to carry on such manufactory, for such length of time as they may deem proper, not exceeding three months at any one time.

*Il.*

§ 88. If any such manufacturer shall, before the period of such suspension be elapsed, set such manufactory in operation, the salt-manufacturing-lot on which the same shall be erected, with the erections and appurtenances, shall be thereby forfeited, on the conviction of such offender, to the people of this state; and the superintendent shall proceed to enter on and sell the same, as provided in the one hundred and forty-eighth section of this Title.

*Fine salt manufactories, where to be erected.*

§ 89. It shall not be lawful for any person to erect any manufactory of fine salt upon any part of the reservation, other than such as shall have been already appropriated and laid out for that purpose, pursuant to law; nor shall the limits of the fine-salt-manufactories be extended, until all the vacant lots within the present limits shall be fully occupied with such manufactories, unless by consent in writing of the superintendent and inspector.

*Incorporations for manufacturing coarse salt.*

§ 90. Any number of persons disposed to engage in the manufacturing of coarse salt, may become incorporated for that purpose, according to the provisions made by law for the incorporation of manufacturing companies; but the stock of any one company so incorporated, shall not exceed fifty thousand dollars.<sup>64</sup>

(84) Laws of 1821, p. 234, § 19; 1825, p. 472, § 42.

§ 91. Any individual, or any such incorporated company, intending to erect works for the manufacturing of coarse salt, before entering on any of the lands of this state set apart for that purpose, shall make application to the commissioners of the land-office, setting forth the amount of capital intended to be invested in such manufactory, and the quantity of land necessary to the erection thereof.

ART. 4.  
Application to land-office.

§ 92. Such application shall be verified by the oath or affirmation of such individual, or of the president or acting agent of said company, that the application is made in good faith, and that the facts set forth in the same are true.

§ 93. The commissioners of the land-office shall thereupon set apart such land, or so much as they shall deem reasonable, for the purposes of such individual or company, in a compact form, as near as may be, on such part of the land reserved for the erection of such manufactories, as such individual or company shall select.

Commissioners to set apart land.

§ 94. Such individual or company shall thereafter have four years to complete the works thereon; but if such individual or company shall not, within one year thereafter, commence such works, and actually expend thereon at least one-tenth part of the capital so specified, such location shall be void; and the land, except such parts thereof as shall have works actually erected thereon, shall be liable to be located by any other individual or company.

Time allowed to complete works.

§ 95. Any part of any such location which, at the expiration of the said four years, shall not be actually occupied by manufactories of coarse salt, pursuant to the intention of the original location, may be again set apart, by the commissioners of the land-office, to any other person or company, for the erection of such manufactories.

Land to be occupied.

§ 96. Any individual or company may erect salt-works for making coarse salt on their own land, near any of the salt springs in the town of Salina, and within the district where salt is now made, and receive the salt water from the state reservoirs, under such regulations as shall, from time to time, be prescribed, by the superintendent and inspector, or by the legislature; provided there shall be a sufficient quantity of salt water to supply all the manufactories, now or hereafter to be erected on the state reservation, depending for their supplies of salt water on the state reservoirs.

When owners of land may erect works.

§ 97. Every such individual or company shall first enter into a covenant with the people of this state, to be approved and taken by the superintendent, subjecting such land, and the works to be erected thereon, to the same duties, regulations, forfeitures, and liabilities, to which the lands of the state, leased for the manufacture of salt, and the works erected thereon, are now, or may hereafter, by law, be made liable.

Pre-requisites.

## TITLE 10.

Owners of  
lots may  
erect works.

§ 98. Whenever any owner of real estate, bordering on the lateral canal from Elm-street to the Onondaga lake, and not in the village of Salina, shall lay out the same into salt-manufacturing-lots, of five rods front, on the canal, and of sufficient depth for the accommodation of salt manufactories, and shall enter into a covenant, in regard to any such lot, as provided in the last preceding section, he shall be entitled to erect a manufactory of salt thereon, and to take the necessary supply of salt water for the same, from the surplus salt water of any of the salt springs at Salina, according to the provisions of the existing laws in that respect.

Buildings,  
&c. to be  
erected.

§ 99. The manufactory, so to be erected, shall contain a good and sufficient building, with ample store-rooms, and proper and suitable reservoirs and cisterns for holding salt water, and a block of kettles, not less than fourteen in number, of the capacity of at least ninety gallons each, well set therein; and not more than one manufactory, of two blocks of kettles, shall be erected on any one of such lots.

Penalty for  
destroying  
salt-works.

§ 100. If any person shall wilfully burn or destroy any salt manufactory, or the buildings appurtenant thereto, or any part thereof, or shall wilfully burn or destroy any of the buildings, reservoirs, pumps, conductors, or water conduits, belonging to the state, used and occupied in the raising of salt water for the use of manufacturers of salt; or shall wilfully injure the same, with the intention to prevent or retard the pumping or raising of salt water, for the use of the manufacturers, or to retard such manufacturers in the use thereof; every such person shall be adjudged guilty of felony, and on conviction thereof, shall be sentenced to imprisonment in the state prison, for a term not exceeding five years.

## ARTICLE FIFTH.

*Regulations and Penalties concerning the Inspection, Packing,  
and Removal of Salt, and the Payment of Duties.*

- Sec. 101. Applications for inspection, how to be made; inspector actually to examine all salt offered for inspection.
102. Salt to be exposed to touch and view of the inspector.
103. Inspector not to pass any salt as good, unless it be well made and free from filth.
104. Strength for lifting salt, and auger, by whom to be provided.
105. Manufacturers may provide scales at their own works.
106. Inspectors may examine, on oath, as to quantity of salt loaded in bulk.
107. If the inspector be fully satisfied, the weighing or measuring of the salt dispensed with.
108. If salt be found of proper quality, &c. inspector to deliver inspection bills.
109. Contents of inspection bills.
110. Inspection bills to be delivered to clerk or keeper of superintendent's office, and duties paid.
111. Duty of such clerk or keeper.
112. Person paying duties, to deliver one receipted inspection bill to inspector, and to keep the other himself.
113. Inspector thereupon to mark the barrels, and how.
114. Inspection not complete till bill be so delivered; barrel to be plugged.
115. Persons counterfeiting inspector's mark, or inspection bill, how punished.
116. Salt not to be inspected or retailed before sunrise or after sundown.

- Sec. 117. No salt to be packed until drained of pickle.
118. Inspector and his deputies may examine as to violation of above provision.
119. Penalty for its violation.
120. Penalty of five dollars for packing salt in a barrel second time, without cutting out first brands.
121. No salt to be removed from manufactory until inspection, without consent of inspector.
122. No uninspected salt to be stored around any place for retailing salt.
123. Persons desirous to have salt inspected without removal, may have it done.
124. When removal desired, it may be done upon payment of duties.
125. Manufacturers to brand or mark their barrels.
126. Inspectors not to inspect any barrels not so marked.
127. Manufacturers omitting to make such brand, shall pay fifty cents for every barrel not branded.
128. Penalty for counterfeiting manufacturer's mark, and for putting wrong names on cask.
129. Salt found in "western district," not marked or branded, liable to seizure.
130. Tax on kettles used for manufacturing salt.
131. Inspector to take daily account of blocks of kettles employed in manufactories.
132. The superintendent to charge such daily tax to manufacturer, and to credit him with duties daily paid; account to be footed every month.
133. In case a balance is due the state upon such account, works to be taken possession of and leased at auction.
134. When manufacturer cannot sell his salt, he may erect a store-house, and deposit it therein.
135. Mode in which account is to be stated with manufacturers who so store their salt.
136. Salt not packed in barrels, &c. not to be conveyed from reservation by water, except on canals.
137. Superintendent to give certificate of payment of duties on salt loaded in bulk, to be transported on canals, and inspector to give one of amount of salt on board.
138. Collector that boat shall first come to, after leaving salt-works, may stop it until such certificate of inspector be produced.
139. If no such certificate be produced, collector may detain boat and cargo, until salt be measured.
140. Boats loaded with salt, not to be permitted to pass any collector's office, unless certificate or receipt be exhibited.
141. Persons removing salt, with an intent to evade inspection or payment of duties, to forfeit the same.
142. Also to forfeit five dollars for every bushel removed, and boat, &c. in which it shall be removed.
143. Superintendent and inspector, and their deputies, may enter every boat in which such salt is, and may seize and sell the same.
144. The officer making such seizure, may also seize boat, &c.
145. May also enter barn, &c. that may contain salt removed, and seize and sell the same.
146. Five dollars penalty for every bushel of salt, not packed in barrels, conveyed from reservation by water, other than by canals.
147. Officers named in this Title, and their deputies, to seize and sell such salt, as directed by the 143d section.
148. If any salt manufacturer defrauds revenue, by conveying away salt without paying duties, he shall forfeit his salt lot and the erections thereon.
149. Penalty on inspector for corrupt conduct in office.
150. If deputy guilty of like conduct, inspector to forfeit 250 dollars.

§ 101. Every person desiring to have salt inspected, shall apply <sup>Application to inspector.</sup> to the inspector or deputy, in the village where the same shall be, which inspector or deputy shall thereupon actually examine the salt so offered for inspection, in the bag, barrel, or other vessel in which the same may then be.

§ 102. To facilitate such examination, it shall be the duty of the <sup>Salt to be exposed.</sup> person offering the salt for inspection, to unhead or bore the barrel, or to open the bag or other vessel, in which the salt is contained, as may

TITLE 10. be directed by the inspector, so as to expose the salt to his touch, view and examination.

Salt to be pure.

§ 103. The inspector shall not pass any salt as good, unless he shall find it to be well made, free from dirt, filth and stones, and from admixtures of lime, or of the ashes of wood, and of any other substance which is injurious to salt, fully drained from pickle, the bitterns properly extracted therefrom, and manufactured as directed, by this Title, and by the rules and regulations of the superintendent and inspector.

Strength to lift.

§ 104. The person offering the same for inspection, shall in all cases provide the necessary strength to lift the salt, while the inspector weighs or measures it: the inspector shall provide the necessary augur to bore the barrels.

Scale for weighing.

§ 105. Each manufacturer may provide a scale or balance at his works, to be examined from time to time, and approved by the inspector, in which all salt offered for inspection, at his works may be weighed.

Oath as to quantity.

§ 106. For the better ascertaining the true quantity of salt, which may at any time be offered for inspection, loaded in bulk, on any cart, wagon, sled, boat, or other vessel or carriage, for transportation, the inspector shall have power to examine any person or persons on oath, touching the quantity of salt so offered to be inspected, which oath such inspector is hereby authorised to administer.

When weighing may be dispensed with.

§ 107. If by such oath, the inspector shall be fully satisfied that the salt offered for inspection has been actually measured, and the weight of the same ascertained according to the regulations in relation to weighing and measuring salt, and that the quantity is truly stated, he shall not weigh the same; but if not so fully satisfied, he shall cause the same to be weighed or measured.

Inspection bills.

§ 108. Whenever the inspector shall have ascertained the quantity of salt in any parcel offered for inspection, and shall be satisfied that it is of such quality that it ought to pass inspection, he shall deliver duplicate inspection bills thereof, dated and signed by him, to the person applying for the inspection.

Contents.

§ 109. In such bills of inspection, there shall be stated the names of the person, at whose instance the inspection is had, and of the manufacturer; the number of bushels and pounds of salt contained in the parcel; and the number of bags, barrels, or other vessels, in which it shall be contained; together with a certificate of the inspector, stating that he has inspected the salt specified in such bills.

Payment of duties.

§ 110. The person applying for inspection, shall thereupon repair to the superintendent's office in the village where the salt is inspect-



ed, and deliver to the clerk or person keeping such office, such duplicate inspection bills, and pay the duties on the salt mentioned therein. ART. 5

§ 111. It shall be the duty of the clerk or keeper of such office, Duty of clerk. thereupon,

1. To mark such bills with numbers, in the order in which they are presented, placing the same number upon each duplicate bill of the same parcel; which number shall be commenced anew, with the commencement of every month;
2. To enter upon his books an account of the parcel of salt, in which he shall state the number of the parcel; the names of the person at whose instance the same shall have been inspected, and of the manufacturer; the number of bushels and pounds of salt in the parcel; the number of bags, barrels, or other vessels in which it is contained; the amount of duties thereon, and the day when the same are paid; And,
3. To sign a receipt at the foot of each duplicate inspection bill, and to deliver the same to the person paying the duties.

§ 112. Such person shall forthwith deliver one of the bills to the Bills how disposed of. inspector by whom the salt was inspected, and retain the other as evidence of the payment of the duties thereon. The bills so received by the inspector, shall be entered in a book to be kept by him, in the manner above prescribed.

§ 113. Such inspector, upon receiving the inspection bill so received, shall thereupon brand, or mark with durable paint, the barrel or cask containing the salt so inspected, with his surname at length, and the first letter of his christian name, with the addition of the word "inspector," in letters of at least one inch in length; and shall mark upon the head of the barrel or cask, with a marking iron, or durable paint, the number of pounds of salt contained in such barrel or cask. Casks to be branded.

§ 114. Until one of the inspection bills so received, shall have Payment of duties when complete. been returned to the inspector, and the salt, when in a cask headed up, shall have been so marked or branded, the inspection shall not be deemed complete, nor the payment of the duties consummated; but no such barrel shall be so marked or branded, until the same be well plugged.

§ 115. Every person who shall either, Counterfeiting brands, &c.

1. Falsely and fraudulently make or counterfeit, or cause to be made or counterfeited, or knowingly aid and assist the false and fraudulent making or counterfeiting, the mark or brand of any inspector, on any barrel, cask or box, containing salt: Or,
2. Falsely and fraudulently make, alter or counterfeit, or knowingly aid and assist in the false and fraudulent making, altering or

**TITLE 12.** counterfeiting any inspection bill, or any receipt of duties thereon, with intent to defraud the people of this state :

Shall be deemed guilty of felony ; and on conviction thereof, shall be imprisoned in the state prison, for a term not less than three, nor more than six years.

**Prohibition.** § 116. No inspector or deputy shall inspect salt after sundown, or before sunrise ; and no salt manufacturer shall retail, or deliver, any **Penalty.** uninspected salt, after sundown, or before sunrise ; and every person offending against any of the provisions of this section, shall forfeit the sum of twenty-five dollars.

**Salt to be drained, &c.** § 117. No manufacturer or other person shall pack, or cause to be packed, in barrels, casks or boxes, any salt, until an inspector shall have determined, upon actual examination, that the same is sufficiently drained of pickle, and otherwise fit for inspection.

**lb.** § 118. The inspector and his deputies, in their daily examinations of the several salt manufactories, may examine all bins of salt, for the purpose of ascertaining, whether any salt is packed contrary to the provisions of the last section.

**Penalty.** § 119. If any manufacturer, or other person, shall pack any salt in barrels, casks, or boxes, before an inspector shall have determined that it is fit for inspection, he shall forfeit the sum of twenty-five cents for every bushel of salt so packed.

**Barrels once used.** § 120. Barrels or casks in which salt shall have been packed and inspected, shall not be again used for the packing of salt therein, until the marks or brands made by the inspector shall be first cut out ; and if any person shall pack or cause to be packed, or shall aid or assist in the packing any uninspected salt, in any such barrel or cask, without first cutting out such marks or brands, he shall forfeit, for every bushel of salt so packed, the sum of five dollars.

**Removal of salt.** § 121. No salt shall be removed from the place where the same shall have been manufactured, until it shall have been regularly inspected, without the consent of an inspector, unless it be to the inspector's office for the purpose of being inspected, or to such safe and secure store-house in the village where it was manufactured, as shall be approved by an inspector, and the key of which shall be kept by him.

**Prohibition.** § 122. No inspector shall permit any uninspected salt to be piled or stored around any store, shop, grocery, or other place for retailing salt on the reservation, or to be removed from the manufactory where the same shall have been made, unless it be for the purpose of being inspected, or of being deposited in some safe and secure store-house, as above provided.

§ 123. Any manufacturer desiring to have his salt packed in barrels and inspected, when he shall not have occasion to sell or remove the same, may apply to an inspector, who shall thereupon examine such salt, take an account of the weight thereof, and mark the weight upon each barrel; after which, such barrels may be deposited in any store-house that shall be approved of by the inspector, to be there safely kept under the joint keys of the inspector and the manufacturer, until such manufacturer shall have occasion to sell or remove the same.

ART. 5.  
Salt inspected without removal.

§ 124. When such removal shall be desired, the inspector shall make out the proper inspection bills, and upon the payment of the duties thereon, in the manner prescribed by this Title, the salt so stored may be marked and removed without being re-inspected.

§ 125. It shall be the duty of every manufacturer to brand or mark, with durable paint, every cask or barrel of salt, manufactured by him, with the surname at full length of the proprietor or owner of the manufactory at which the same shall have been made, and the initial letter of his christian name, and if the same shall have been manufactured for a company or association of individuals, he shall mark or brand in like manner, upon every such cask or barrel, the name of the firm by which the company is usually called.

Manufacturers name.

§ 126. No inspector shall inspect or pass, any cask or barrel of salt, which shall not be marked or branded in the manner prescribed in the last section.

§ 127. If any manufacturer shall omit to mark or brand any barrel or cask headed up, in which any salt made by him shall be so packed, he shall pay to the purchaser of such salt, the sum of fifty cents, for each barrel or cask, so omitted to be marked or branded.

Penalty.

§ 128. Every person who shall forge or counterfeit the name, so required to be put on by the manufacturer, or shall cause or procure to be put on any barrel or cask in which salt shall be packed, the name of any person other than that which ought to be put thereon, shall, for every such offence, forfeit the sum of twenty-five dollars, and shall also be liable for all damages to the party aggrieved.

§ 129. In case any barrels or casks of fine salt, of the appearance and quality of salt usually manufactured in that district of country, which by the act entitled "An act respecting the four great senatorial districts of this state," passed April 17th, 1815, was denominated the "western district," shall be found in any of the counties included in that district, not marked or branded in the manner herein before directed, it shall be the duty of the officers connected with the salt springs, and their deputies, to seize all such salt, and to sell the same

Casks not marked, when to be seized.

**TITLE 10.** for the use of the people of this state, in the manner directed in the one hundred and forty-third section of this Title, unless the owner of said salt, or the person having the same in possession, shall prove to the satisfaction of the person seizing the same, that the duties thereon have been actually paid.

Daily charge  
on manufac-  
tories.

§ 130. Each salt manufactory, shall, for the securing the collection of duties on the salt made at the same, be subject to a daily tax, or charge of four mills per gallon on the capacity of the first ten kettles set in each block, three mills per gallon on the next two kettles, and two mills per gallon for the remaining two kettles set in each block, for the time such kettles are used in making salt.

Daily ac-  
count.

§ 131. It shall be the duty of the inspector in each of the villages, to take an account daily of the blocks of kettles actually employed in each manufactory, and of the capacity of the kettles set therein, and to report the same to the superintendent, in the office kept in the village nearest to the manufactory.

How kept.

§ 132. The superintendent shall charge to each manufacturer, in a book to be kept for that purpose in each of the offices of the superintendent, the amount of such daily tax, or charge, and he shall credit to such manufacturer the duties received on the salt inspected from such works daily, which account shall be footed at the expiration of each month.

Remedy for  
collection of  
balance.

§ 133. In case there shall, at any time, be a balance due the state, on the settlement of such monthly account, it shall be the duty of the superintendent, to enter on and take possession of the works, on which such tax or charge shall be so in arrear; and after advertising the same in each of his offices for six days, unless such arrears shall then be paid, to lease the same by auction, to the person who shall pay such arrears, for a lease of such works for the shortest period; during which period such works, with the appurtenances, shall be held by such lessee, on the same terms upon which they were held by the original lessee; and at the expiration of such lease, the premises shall revert to the original lessee.

Store-houses.

§ 134. To enable manufacturers of salt to keep their works in operation, when there is no market for the salt made, it shall be lawful for each manufacturer, for himself, or any number of manufacturers combined, to erect a store-house for the deposit of salt, to be approved of by the inspector, and kept in repair by the owners thereof, in which they may deposit their salt from time to time, under the charge of the inspector in the village nearest which such works shall be situated, which inspector shall keep the keys of such store-house.

25

§ 135. Every manufacturer so storing his salt, shall have credit in the monthly account above mentioned, for the amount of duties on the

salt so deposited, according to a certificate to be made by the inspector, stating the quantity of such salt, as nearly as may be, on an estimate to be made thereof, without actually measuring or weighing the same, until such salt shall be inspected and the duties paid thereon, when such manufacturer shall have credit for the duties actually received on such salt, and be charged with the amount credited to him, on the inspector's certificate.

ART. 5.

§ 136. No salt not packed in barrels or casks, marked or branded as above required, shall be conveyed or transported from the reservation by water, except on the Erie or Oswego canals. Transportation of salt by water.

§ 137. Whenever salt shall be loaded in bulk on board of boats to be transported on the Erie or Oswego canals, pursuant to the rules and regulations of the superintendent and inspector, and the duties shall have been paid thereon, the superintendent shall give a certificate thereof, which shall be delivered by the person receiving it to the inspector, who shall thereupon give a certificate, stating the amount of salt loaded on board such boat, and that the duties thereon have been paid to the superintendent. lb.

§ 138. It shall be the duty of every collector of tolls on the Erie or Oswego canals, at any place where any boat having loose salt on board, shall first come from the salt works where the same was made, to stop and detain every such boat, until such certificate of the inspector shall be produced, and on the production thereof, to take the same, and permit the boat to pass. The certificate shall be filed in the office of such collector, who shall give a certified copy of the same to the person having charge of the boat. Duty of collector.

§ 139. If no such certificate shall be produced, or if the collector shall be of opinion that the quantity of loose salt on board such boat, exceeds the quantity mentioned in the certificate, he shall cause the same to be measured; and shall detain every boat having loose salt on board, without such certificate, or having on board a greater quantity than that mentioned in the certificate, with all the salt in the same, until the owner of such salt, or the owner or master of the boat, shall pay to such collector the sum of one dollar for each bushel of loose salt, so found on board a boat having no certificate, or exceeding the amount mentioned in the certificate produced, for the use of the canal fund, and two cents per bushel on the salt measured, for the expense of measurement, in lieu of all other penalties. lb.

§ 140. No boat loaded with salt in bulk, shall be permitted to pass any collector's office, without exhibiting to such collector, such certificate or a collector's receipt therefor. lb.

§ 141. Every person who shall remove, or attempt to remove from the reservation, or from any salt manufactory, store-house, or other Penalty for evading payment of duties.

**TITLE 10.** place of deposit, any salt before it shall have been inspected, and the duties thereon paid, with intent to evade the inspection thereof, or the payment of the duties thereon, shall forfeit such salt, together with the bag, barrel, or other vessel in which it shall be contained.

1b. § 142. Every such person shall also forfeit five dollars for every bushel of salt so removed or attempted to be removed; and the boat, vessel, cart, wagon, sled, or other vehicle in, or by which, the same shall be removed, or attempted to be removed, together with all the apparel, tackle and team thereto belonging, shall be taken to be the property of such person, and be liable to the payment of such penalty.

Process for  
penalty how  
executed.

§ 143. The superintendent and inspector, and their deputies, and every person by them or either of them for that purpose specially deputed, and every person empowered to execute any process issued for any penalty incurred under the two last sections, or either of those sections, shall severally have power to enter any boat, vessel, cart, wagon, sled, or other vehicle, in or by which such salt shall have been removed, or attempted to be removed, as above specified; to seize all such salt, with the bag, barrel, or other vessel containing it; and to sell the same, for the use of the people of this state, at public auction, after giving six days' notice of the time and place of sale.

1b. § 144. The officer or person making such seizure, may also seize such boat, vessel, cart, wagon, sled, or other vehicle, together with the tackle, apparel, and team thereto belonging, and may retain the same until the determination of any suit, which may be brought for the penalty above imposed.

Buildings  
may be en-  
tered.

§ 145. Such officers, or other persons, shall also severally have power to enter every barn, store-house, enclosure, or other place of deposit, which they may suspect to contain salt so removed, or attempted to be removed, to seize all salt so removed, or attempted to be removed, that shall be found therein, with the bag, barrel, or other vessel containing it, and to sell the same, in the manner and for the purposes provided in the one hundred and forty-third section of this Title.

Further pe-  
nalty

§ 146. If any person shall convey or transport, or cause to be conveyed or transported from the reservation, by water, (other than by the waters of the Erie or Oswego canals) any salt not packed in barrels, or casks, marked or branded as aforesaid; or shall put any such salt on board any boat or vessel, with intention so to convey or transport the same from the reservation, such person, and his aiders and abettors, shall severally forfeit and pay five dollars for every bushel of salt so conveyed or transported from the reservation, or so put on board any boat or vessel, with intention so to convey or transport the same; and shall also forfeit such salt.

§ 147. It shall be the duty of the several officers and persons enumerated in the one hundred and forty-third section of this Title, to seize and sell such salt, in the manner and for the purposes directed by that section.

ART. 6.  
  
 lb.

§ 148. If any salt manufacturer shall be guilty of defrauding the revenue of this state, by conveying, or causing to be conveyed from his manufactory, any salt without inspection, with intent to evade the payment of the duties thereon; or shall advise, aid, or assist any other person, in conveying away the same with intent to evade the payment of duties thereon; the salt-manufacturing-lot of such manufacturer, with the erections thereon, and the appurtenances, shall, upon his conviction of such offence, be forfeited to the people of this state; and the superintendent shall enter upon such salt manufacturing lot, and expose the same to sale at public vendue, with the erections thereon, and the appurtenances. Such manufacturer shall also be liable, to all the other penalties provided by law, against such offences.

Salt lot when forfeited.

§ 149. If any inspector shall consent to, connive at, aid or abet the smuggling of salt, or the transporting of the same away, so as to evade the payment of duties thereon; or shall accept of any bribe or sum of money, or any gift or reward whatsoever, upon any express, or secret, or implied trust, or confidence that he shall connive at, or consent to any evasion of the laws for the inspection of salt, or the payment of the duties on salt, such inspector shall forfeit his office, and pay to the use of the people of this state, the sum of two hundred and fifty dollars.

Penalty on inspector.

§ 150. If the deputy of any inspector shall be guilty of the offences specified in the last section, or either of them, the inspector appointing such deputy, shall forfeit to the use of the people of this state, the sum of two hundred and fifty dollars, for the recovery of which his bond shall be put in suit.

Deputy-inspector.

#### ARTICLE SIXTH.

##### *Miscellaneous Provisions applicable to the Onondaga Salt Springs.*

- Sec. 151. Meaning of term "reservation," in this Title.
- 152. Meaning of term "manufacturer."
- 153. Superintendent, inspector, and deputies, and all persons employed in works, exempt from militia and jury duty. Evidence thereof.
- 154. Process for penalties under this Title, may be served Sunday, &c.
- 155. If no civil officer present, superintendent, &c. and their deputies, may serve process.
- 156. Bail in such cases to be taken in name of sheriff.
- 157. If suit commenced by warrant of a justice of Onondaga county, upon what conditions defendant may have it adjourned.
- 158. If defendant comply with conditions, justice to take testimony in writing, and cause may be adjourned.

- TITLE 10.** **Sec. 159.** Upon execution issued upon judgment of a justice, if no sufficient property found to satisfy it, defendant to be committed for sixty days.
160. If defendant found without walls of jail, within that time, sheriff liable for an escape.
161. When penalty is imposed under this Title for a trespass, and a private person injured, he may recover damages against trespasser.
162. Expenses for stationary, &c. of different officers, and printing, to be paid out of treasury.
163. Comptroller to cause to be printed and distributed as many copies of this Title as he shall judge necessary.

"Reservation" defined.

§ 151. Whenever the term "reservation," occurs in the second, third, fourth, fifth and sixth Articles of this Title, it shall be construed to extend to the whole of the original reservation for the use of the salt springs.

"Manufacturer," defined.

§ 152. The term "manufacturer," whenever it shall occur in the above mentioned Articles of this Title, shall be construed to apply to every person having, at the time, the charge, direction or control of a manufactory, whether as owner or proprietor thereof, or by lease or hiring from such proprietor.

Privileges of officers.

§ 153. The superintendent and inspector, and each of their deputies, and all persons employed in attendance upon any works for the manufacturing of coarse salt, shall be exempt from serving on juries, and from all military service, except in case of actual invasion or insurrection; and the commission or appointment in writing, of any such officer or deputy, and the certificate of any owner or agent of any coarse-salt-manufactory, that any person is employed or engaged in attending upon such manufactory, shall be evidence of the facts stated therein.

Process how served.

§ 154. Any process by which the defendant's body is ordered to be taken, in any action brought for any forfeiture or penalty under this Title, may be issued and served on Sunday, and the defendant held in custody, for trial, until a reasonable time on the day following, if such process be issued by a justice of the peace; but if issued from any court of record, then the defendant shall be detained, until he shall give bail, as in actions where defendants are held to bail.

And by whom.

§ 155. If no civil officer be present, to serve any such process, the superintendent or inspector, or either of their deputies, shall be, and they are hereby respectively authorised to serve such process, whether the same be issued and served on Sunday, or any other day.

Bail thereupon.

§ 156. In case process issued out of any court of record, shall be so served, bail shall be taken in the name of the sheriff, in the same manner as though such process had been served by one of his deputies; but the sheriff shall not be responsible for the sufficiency of such bail, unless the defendant shall have been actually committed to jail in which case he shall be responsible as in other cases.



§ 157. If any suit for the recovery of any such penalty or forfeiture, shall be prosecuted by warrant issued by any justice of the peace of the county of Onondaga, it shall not be lawful for such justice to adjourn the cause, on the prayer of the defendant, unless such defendant shall consent, that the justice take the testimony in writing of any witness on the part of the plaintiff, then present, but actually residing without the county of Onondaga.

ART. 6.  
Adjournment  
of suit for  
penalty.

§ 158. If the defendant shall so consent, the justice shall then proceed to take such testimony, in the presence of the defendant, and reduce the same to writing; after which, the cause may be adjourned; and the testimony so taken, shall be received in evidence on the trial of the cause.

§ 159. Whenever a judgment shall be obtained before a justice of the peace, against any person, for any such penalty or forfeiture, and an execution be issued thereon, in case the officer having such execution shall not be able to levy the same on any property of the defendant, he shall commit the defendant to the jail of the county, where he shall remain confined, within the walls of the jail, without bail, for the term of sixty days, unless he shall sooner pay or satisfy such execution; and every execution so issued, shall contain a clause, ordering the defendant to be imprisoned, as above specified, unless property whereon to levy such execution, shall be found by the officer to whom the same shall be directed.

Defendant  
when to be  
committed,

§ 160. If, at any time, any defendant, so committed to jail, shall be found without the walls of the jail, it shall be deemed an escape, and the sheriff shall be liable for the amount due on the execution.

Escape.

§ 161. Whenever, in this Title, a penalty or forfeiture is imposed for any trespass by which any private person shall be injured, the person committing such trespass, shall, notwithstanding such penalty or forfeiture, be liable to the party injured, for damages and costs.

Liability of  
persons guilty  
of trespass.

§ 162. The expenses of stationary and forms for the different offices, and for their own use, in the execution of the duties of their office, and the expense of printing directed by this Title, shall be audited by the comptroller, and be paid out of the treasury of this state, from the monies received from duties on salt, as a part of the contingent expenses for the collection of those duties; and the superintendent shall, semi-annually, on the first Monday of January and July in each year, certify to the comptroller the amount of such expenses, stating at length the items constituting the same, and furnish the vouchers therefor.

Stationary,  
&c. for off  
cers.

§ 163. The comptroller shall cause such number of copies of this Title to be printed in a pamphlet form, as he shall judge necessary,

**TITLE 10.** and shall deliver them to the superintendent, to be distributed by him amongst the several officers enumerated in this Title, and their deputies, and the justices of the peace, constables and salt manufacturers in the town of Salina. The expenses of printing such copies, shall be paid out of the treasury, and charged as a part of the contingent expenses connected with the collection of the duties on salt.

*This Title to be published.*

**ARTICLE SEVENTH.**

*Of the Salt Springs at Montezuma.*

- Sec. 164.** Superintendent of, to give bonds.  
**165.** His powers and duties.  
**166.** His commissions.  
**167.** Manner of accounting for monies received.

*Superintendent's bond.*

§ 164. Every person hereafter appointed to the office of superintendent of the salt springs at Montezuma, shall, in like manner as the superintendent of the Onondaga salt springs, execute a bond in the sum of three thousand dollars to the people of this state, with one or more sufficient sureties to be approved of by the comptroller, for the faithful discharge of the duties of his office.<sup>85</sup>

*Powers and duties.*

§ 165. Such superintendent shall possess all the powers, and perform all the duties in relation to the manufacturing of salt at Montezuma, which are possessed or performed, either jointly or severally, by the superintendent and inspector of the Onondaga salt springs, in relation to the manufacturing of salt in the county of Onondaga; and all the provisions, forfeitures, penalties and restrictions, contained in the foregoing Articles of this Title, shall be in force in relation to the manufacturing of salt at Montezuma, and to the collection of duties thereon, so far as the same may be applicable.<sup>85</sup>

*Compensation.*

§ 166. The superintendent of the Montezuma salt springs shall be entitled to retain for his services, and in lieu of all other fees, seven and a half per cent. upon all monies, which he shall collect for salt manufactured at Montezuma.<sup>85</sup>

*Account.*

§ 167. He shall account for all monies received by him, and pay over and deposit the same, in like manner as the superintendent of the Onondaga salt springs, except that the monies collected by the superintendent at Montezuma, after deducting commissions and necessary expenditures, shall be deposited in the bank of Auburn.<sup>85</sup>

(85) Laws of 1821, p. 223, § 18.

TITLE XI.

TITLE II.

OF THE INTEREST OF THE STATE IN MINES.

- Sec. 1. What mines belong to the state in right of sovereignty.  
 2. Other mines belonging to the state.  
 3. What mines belong to the owner of the soil.  
 4. Discoverers of gold and silver mines, to have benefit thereof for twenty-one years.  
 5. Notice to be given to the secretary of state by such discoverer.  
 6. Such discoverer to be preferred in subsequent contracts for the working of the mines.  
 7. Limitation of the provisions of this Title.

§ 1. The following mines are, and shall be, the property of the people of this state, in their right of sovereignty: Interest of state as sovereign.

1. All mines of gold and silver discovered, or hereafter to be discovered, within this state.
2. All mines of other metals discovered, or hereafter to be discovered, upon any lands owned by persons not being citizens of any of the United States.
3. All mines of other metals discovered, or hereafter to be discovered, upon lands owned by a citizen of any of the United States, the ore of which, upon an average, shall contain less than two equal third parts, in value, of copper, tin, iron and lead, or any of those metals.<sup>86</sup>

§ 2. All mines, and all minerals and fossils discovered, or hereafter to be discovered, upon any lands belonging to the people of this state, are and shall be the property of the people, subject to the provisions hereinafter made to encourage the discovery thereof.<sup>87</sup> As owner.

§ 3. All mines of whatever description, other than mines of gold and silver, discovered or hereafter to be discovered, upon any lands owned by a citizen of any of the United States, the ore of which, upon an average, shall contain two equal third parts or more, in value, of copper, tin, iron and lead, or any of those metals, shall belong to the owner of such land.<sup>88</sup> Private property.

§ 4. Every person who shall make a discovery of any mine of gold or silver, within this state, and the executors, administrators or assigns of such person, shall be exempted from paying to the people of this state, any part of the ore, produce or profit of such mine, for the term of twenty-one years, to be computed from the time of giving notice of such discovery, in the manner herein after directed.<sup>89</sup> Bounty to discoverers.

§ 5. No person discovering a mine of gold or silver within this state, shall work the same, until he give notice thereof, by information in writing, to the secretary of this state, describing particularly therein, the nature and situation of the mine. Such notice shall be registered in a book, to be kept by the secretary for that purpose.<sup>90</sup> Notice to be given.

(86) 1 R. L. 124, § 1 & 5; 298, § 5. (87) Laws of 1827, p. 299, § 4. (88) 1 R. L. 125, § 5. (89) Id. § 1. (90) Id. § 2.

**TITLE 10.** *Sec.* 159. Upon execution issued upon judgment of a justice, if no sufficient property found to satisfy it, defendant to be committed for sixty days.

160. If defendant found without walls of jail, within that time, sheriff liable for an escape.

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Privileges of officers.

§ 153. The superintendent and inspector, and each of their deputies, and all persons employed in attendance upon any works for the manufacturing of coarse salt, shall be exempt from serving on juries, and from all military service, except in case of actual invasion or insurrection; and the commission or appointment in writing, of any such officer or deputy, and the certificate of any owner or agent of any coarse-salt-manufactory, that any person is employed or engaged in attending upon such manufactory, shall be evidence of the facts stated therein.

Process how served.

§ 154. Any process by which the defendant's body is ordered to be taken, in any action brought for any forfeiture or penalty under this Title, may be issued and served on Sunday, and the defendant held in custody, for trial, until a reasonable time on the day following, if such process be issued by a justice of the peace; but if issued from any court of record, then the defendant shall be detained, until he shall give bail, as in actions where defendants are held to bail.

And by whom.

§ 155. If no civil officer be present, to serve any such process, the superintendent or inspector, or either of their deputies, shall be, and they are hereby respectively authorised to serve such process, whether the same be issued and served on Sunday, or any other day.

Bail thereupon.

§ 156. In case process issued out of any court of record, shall be so served, bail shall be taken in the name of the sheriff, in the same manner as though such process had been served by one of his deputies; but the sheriff shall not be responsible for the sufficiency of such bail, unless the defendant shall have been actually committed to jail, in which case he shall be responsible as in other cases.

office of one of the clerks of the supreme court; and every trial of any such action, pursuant to such agreement, shall have the like effect and validity as if such trial were had in the county where such lands are situated.<sup>94</sup> TITLE 13.

§ 5. In all cases where proceedings have been or shall hereafter be had, whereby any part of any lot on the tract set apart for military bounty lands, have been or shall be, by judgment of law, escheated to the people of this state, on account of the death of the original patentee, without heirs, and before a conveyance by such patentee, or for any other cause, which shall in like manner extend to the title of the whole of such lot, the whole and every part of such lot included in the original patent of the same, and which, at the time of such escheat, was not in the actual possession of any person or persons under colour of title, may be sold by the commissioners of the land-office, and granted in the manner provided by law for the sale of the unappropriated lands belonging to this state.<sup>95</sup> Effect of escheat of part of a lot.

§ 6. Any such grant shall be presumptive evidence of the title of the people of this state, and of the grantee therein named, but may be rebutted by proof that the premises contained in such grant had not in fact escheated to this state.<sup>95</sup> Grants there of.

§ 7. Whenever such proceedings shall have been had, as are mentioned in the fifth section of this Title, and a part of a military lot shall have been escheated to the people of this state, for any reason which extends to the title of the whole lot, the commissioners of the land-office may cause the value of the remaining parts of said lot to be appraised as provided in the "Act for the relief of the occupants of military lands which have escheated to the people of this state," passed April 13th, 1819, and the acts amending the same, notwithstanding the necessary proceedings may not have been had to perfect the title of the people to the same; and the occupants of such parts shall thereupon be entitled to all the privileges and benefits conferred by the said act, and the several acts amending the same.<sup>96</sup> Occupants.

§ 8. The attorney-general shall, from time to time, make report to the commissioners of the land-office, of all escheated lands recovered by him, in any action of ejectment brought under this Title. Report.

### TITLE XIII.

#### OF THE RECOVERY OF FORFEITED ESTATES.

- Sec. 1. Real estates forfeited for treason, how recovered.  
 2. Personal estate so forfeited, how recovered.  
 3. Writ of enquiry to be issued to the sheriff.  
 4. Proceedings on such writ and effect thereof.

(94) Laws of 1820, p. 249, § 8. (95) Laws of 1828, p. 489, 490.

**TITLE 1.**  
Real estate.

§ 1. Real estates forfeited to the people of this state, upon any conviction or outlawry for treason, may be recovered in the same manner as escheated lands; and for that purpose, all the provisions of the preceding Title, except those contained in the fourth, fifth, sixth and seventh sections, shall be construed to extend to the recovery of estates so forfeited.<sup>96</sup>

Personal.

§ 2. Whenever any personal estate shall be forfeited to the people of this state, upon any such conviction or outlawry, the attorney-general may sue for and recover the same; and the amount thereof, when recovered, shall be paid into the treasury.<sup>96</sup>

Writ of inquiry.

§ 3. Whenever he shall deem it necessary, the attorney-general may cause a writ to be issued out of the supreme court, to the sheriff of any county, to inquire what goods and chattels, any person convicted or outlawed for treason, had at the time of such conviction or outlawry, and to seize and safely keep the same, and return the inquisition into the supreme court, where any person aggrieved thereby, may traverse the same.<sup>96</sup>

Proceedings thereon.

§ 4. If judgment shall be given upon such traverse for the people of this state, or if such inquisition shall not be traversed before the end of the term in which it shall be returned, then a writ shall be issued out of the supreme court to the sheriff, commanding him to sell such goods and chattels, and to bring the monies arising from the sale thereof into court, for the use of the people of this state.<sup>96</sup>

## CHAP. X.

### Of the Militia, and the Public Defence.

TITLE 1.—Of the persons subject to military duty.

TITLE 2.—Of the election and appointment of militia officers, and the tenure of their offices.

TITLE 3.—Of the enrolment of persons subject to military duty.

TITLE 4.—Of the organization, uniform and discipline of the militia.

TITLE 5.—Of the several parades and rendezvous of the militia.

TITLE 6.—Of courts of enquiry, and courts martial.

TITLE 7.—Of penalties, fines, fees and expenditures.

TITLE 8.—Of the duties of certain staff officers, and of various matters connected with their respective departments.

TITLE 9.—Miscellaneous provisions of a general nature.

TITLE 10.—Special provisions.

## TITLE I.

TITLE I.

## OF THE PERSONS SUBJECT TO MILITARY DUTY.

Sec. 1. Persons subject to military duty.

2. Civil officers and others, exempt from military duty.
3. Non-commissioned officers and privates of uniform companies, when to be exempt.
4. Provision for removal from one company to another.
5. Mariners and firemen exempt.
6. Manufacturers and students, when exempt.
7. Persons having scruples of conscience may commute.

SECTION 1. All able bodied free white male citizens between the ages of eighteen and forty-five years, resident in this state, and not exempted from serving in the militia by the laws of the United States, or of this state, are subject to military duty within this state.<sup>1</sup>

§ 2. In addition to the persons exempted by the laws of the United States, the following persons shall be exempt from military duty:

1. The lieutenant-governor ;
2. The members of the legislature, during the term for which they were elected, and the officers thereof during its meeting, and for fourteen days before and after each meeting ;
3. The secretary of state, attorney-general, comptroller, treasurer and surveyor-general, and the deputies and clerks in their respective offices ;
4. The chancellor, register and assistant register of the court of chancery, judges and clerks of the supreme court, circuit judges, judges and clerks of county courts, surrogates, judges of mayor's courts, and sheriffs ;
5. Ministers and preachers of the gospel, teachers in all colleges, and teachers actually employed in academies and common schools ;
6. Officers in the army of the United States ;
7. Officers who have served as such in the militia of this state, or in that of any of the United States, for the space of four years ; but no such officer who may have served in the militia of this state, shall be so exempt, unless by his resignation duly accepted, or in some other lawful manner, he shall have been honourably discharged from his commission.

§ 3. Every non-commissioned officer, musician and private of every uniform company or troop, raised, or hereafter to be raised, who has heretofore uniformed himself, or shall hereafter uniform and equip himself, and whose term of service in such company or troop, shall have amounted, or shall amount, to fifteen years from the time of his enrolment therein, shall be exempt from military duty, except in cases of insurrection or invasion.

(1) This Chapter, except where otherwise noted, was compiled from the act of the 23d of April, 1823 ; Laws of 1823, p. 329. The acts of Congress relating to the militia, now in force, will be found in the APPENDIX to this volume.

## TITLE 2

70.

§ 4. If any member of such company or troop, who shall have been regularly uniformed and equipped, shall, upon his removal out of the beat of such company or troop, or upon the disbandment thereof, enlist into any other uniform company or troop, and uniform and equip himself therefor, and serve in the same; whenever the whole time of his service in such companies or troops, computed together, shall amount to fifteen years, he shall be exempt from military duty, in like manner as if he had served for the whole period, in the company or troop in which he was first enrolled.<sup>2</sup>

Mariners and firemen.

§ 5. Every person actually employed by the year or season, on board any vessel, in the merchant service or coasting trade, in this state; all firemen attached to supply engines; and all other firemen, belonging to any company, not exceeding sixteen in number, attached to a fire engine; unless in cases otherwise specially provided, shall be exempt from military duty, except in cases of war, insurrection or invasion.<sup>2</sup>

Manufacturers and students.

§ 6. Every person actually employed by the year, month or season, in any blooming-furnace, iron-foundry, glass, woollen, or cotton factory; and every student in any college or academy within this state, shall be exempt from military duty, except in cases of insurrection or invasion.<sup>3</sup>

Who may commute.

§ 7. Every inhabitant of this state of any religious denomination, otherwise subject to military duty, but who, from scruples of conscience, shall be averse to bearing arms, and shall refuse personal military service, shall be exempt therefrom, on paying annually the sum of four dollars for such exemption.<sup>4</sup>

## TITLE II.

## OF THE ELECTION AND APPOINTMENT OF MILITIA OFFICERS, AND THE TENURE OF THEIR OFFICES.

- Sec. 1. What officers appointed by governor and senate; adjutant-general by governor.  
 2. Certificate of appointment and commission.  
 3. Commander in chief to appoint his own aids and military secretary.  
 4. Commissary-general appointed by legislature for three years; how removed.  
 5. Copies of resolution appointing commissary-general, to be sent to governor and adjutant-general.  
 6. Commissary-general to take oath. Resignation.  
 7. Captains, subalterns, non-commissioned officers, field officers and brigadier-general, how chosen.  
 8. Staff officers, how appointed.  
 9. Commissioned officers are to be commissioned by governor; may be removed by senate on his recommendation.  
 10. Serjeant-majors, &c. appointed by commanding officer of regiment, &c.  
 11 & 12. How vacancy in office of brigadier-general filled.  
 13. Vacancy in office of field officer, how filled.  
 14. Vacancy in office of captain or subaltern in any company, how filled.

(2) Laws of 1826, p. 412, § 4 & 7. (3) Cons. art. 7, § 5; Laws of 1824, p. 267, § 1.  
 (3) Laws of 1824, p. 332, § 6.



- no. 15. Notices for an election, how served.
16. Officer issuing notice, to direct some person to serve it ; return to be made.
17. Authentication of return.
18. Officer causing notice to be given, to attend and preside at election.
19. If he do not attend, who to preside.
20. Presiding officer to receive votes, and give notice to persons elected ; person to accept in ten days, or considered as declining.
21. After person elected signifies his acceptance, presiding officer to communicate his name to commanding officer.
22. When an officer in commission is elected to fill a vacancy, meeting to supply place of officer promoted.
23. Commanding officers of brigades to transmit names of persons elected, to commander in chief.
24. Persons aggrieved at an election, may appeal.
25. Officer appealed to, may order a new election.
26. Appeal lies from commandant of brigade, to commander in chief.
27. Commander in chief may make rules and regulations relative to elections and appeals.
28. Commissioned officers to take oath.
29. Before whom oath taken.
30. Certificate of oath to be endorsed on commission.
31. No fee allowed for such oath.
32. A company may at any meeting elect non-commissioned officers.
33. Commandant of company to conduct election ; to certify persons elected to commandant of regiment.
34. He is to decide upon legality of election, and issue warrants.
35. Commandants of companies may call special meetings, for election of non-commissioned officers.
36. When a majority required, and when a plurality sufficient.
- 37, 38 & 39. Resignations, and the acceptances thereof.
40. On accepting a resignation, commander in chief to cause notice of an election to fill vacancy.
41. When removal from bounds of command vacates office.

§ 1. All major-generals, brigade-inspectors, and chiefs of the staff departments, except the adjutant-general and the commissary-general, are nominated by the governor, and appointed by him with the consent of the senate ; the adjutant-general is appointed by the governor.<sup>5</sup>

§ 2. The resolution of the senate, concurring in any nomination made by the governor to a military office, shall be certified by the president and clerk of the senate, and be transmitted to the adjutant-general, who shall issue the commissions, and record the same in books to be provided by him.

§ 3. The commander in chief shall appoint his own aids and military secretary.

§ 4. The commissary-general is appointed by the legislature in the same manner in which the state officers are directed to be appointed in the third Title of the fifth Chapter of this act. He holds his office for three years, unless sooner removed by concurrent resolution.<sup>5</sup>

§ 5. A copy of the concurrent resolution of the senate and assembly, appointing the commissary-general, attested by the presiding officers and clerks of the respective houses, shall be immediately transmitted to the governor, and a duplicate thereof, attested in the same manner, to the adjutant-general.

(5) Cons. art. 4, § 2 & 6.

TITLE 2.  
1b.

§ 6. The commissary-general shall not enter on the duties of his office, until he shall have taken the oath of office prescribed in the constitution. Such oath shall be taken before any officer authorised to administer the same oath to the attorney-general, within the same period, and subject to the same regulations. The resignation of the commissary-general shall be tendered to the legislature, and be filed in the office of the secretary of state.

Officers elected.

§ 7. Captains, subalterns and non-commissioned officers, are chosen by the written votes of their respective companies; field officers of regiments and separate battalions, by the written votes of the commissioned officers of their respective regiments and separate battalions; and brigadier-generals by the field officers of their respective brigades.<sup>6</sup>

Staff officers.

§ 8. Major-generals, brigadier-generals and commanding officers of regiments or separate battalions, appoint the staff officers of their respective divisions, brigades, regiments or separate battalions.<sup>6</sup>

Commissioned officers.

§ 9. The commissioned officers of the militia are commissioned by the governor; and no commissioned officer can be removed from office, unless by the senate on the recommendation of the governor, stating the grounds on which such removal is recommended; or by the decision of a court-martial, pursuant to law.<sup>6</sup>

Warrant officers.

§ 10. Sergeant-majors, quarter-master-sergeants, drum-majors, fifemajors, and trumpet-majors, shall be appointed by the commanding officer of the regiment or separate battalion to which they shall belong, by warrant under the hand of such commanding officer, and shall hold their offices during his pleasure.

Vacancy in office of brigadier.

§ 11. Whenever the office of a brigadier-general is vacant, the commander in chief shall issue an order for an election to fill the vacancy; and shall designate a major-general, or some other proper officer, to preside at such election.

Notice of election.

§ 12. The officer so designated, shall cause a written or printed notice, to be served on each of the field officers of the brigade in which the vacancy exists, at least ten days previous to the election, specifying the time and place of holding such election.

Vacancy, field officer.

§ 13. Whenever the office of any field officer in any regiment or separate battalion, is vacant, the commanding officer of the brigade to which such regiment or separate battalion belongs, shall cause a written or printed notice to be served on each commissioned officer in such regiment or battalion, of an election to fill the vacancy. The notice shall specify the time and place of holding the election, and be served at least five days before such election shall take place.

§ 14. Whenever the office of a captain or subaltern in any company or troop is vacant, the commanding officer of the regiment or separate battalion to which such company or troop belongs, shall cause a written or printed notice of an election to fill the vacancy, to be served on the members of such company or troop, at least three days before the election shall take place; and shall specify in such notice, the time and place of the election.

TITLE 2  
Vacancy,  
captain or  
subaltern.

§ 15. All notices for any election shall be served on the persons entitled to vote thereat, in the same manner as non-commissioned officers, musicians and privates, are warned to attend a parade.

Service of  
notice.

§ 16. The officer issuing the notice, shall designate some proper person or persons to serve the same, or to direct such service; and the person so designated, shall make a return of the persons notified, and of the manner of the service.

§ 17. The return, if made by a commissioned officer, shall be authenticated by his certificate on honor; if by a non-commissioned officer, by the oath of the person making such service. The oath may be administered by any magistrate, or by the officer issuing the notice.

Return.

§ 18. The officer causing the notices to be given for any of the aforesaid elections, shall attend at the time and place of holding such election; he shall organize the meeting, and preside thereat, and may, for sufficient cause, adjourn the same from time to time.

Elections of  
officers, how  
conducted.

§ 19. If the officer causing the notices to be given, shall not attend the meeting for the election, then the officer of highest rank present, or in case of an equality of rank between two or more, then such one of them as a majority of the electors present shall choose, shall preside at such meeting, and for sufficient cause may adjourn the same.

§ 20. The officer presiding when an election shall take place, shall receive the votes of the electors present for the officers to be elected, and shall forthwith give notice to every person elected of his election. If such person shall not, within ten days thereafter, signify to such officer his acceptance, he shall be considered as declining the office to which he shall have been chosen, and an election shall be held for a new choice.

§ 21. Immediately after the person elected shall have signified his acceptance, the officer who shall have presided at the election, shall, in case of the election of a brigadier-general, communicate the same to the commander in chief; and in all other cases, if not himself the commanding officer of the brigade, shall certify to such commanding officer, the names of the persons duly elected.

§ 22. If, at any election, an officer, then in commission, shall be elected to fill a vacancy, and shall not decline, the electors present,

## TITLE 2.

whether such officer be present or absent, shall proceed to elect a person to fill the place of the officer so promoted, if the officers or persons assembled at such meeting have authority to make the choice.

Notice to  
commander  
in chief.

§ 23. The commanding officers of brigades, shall transmit the names of all persons duly elected or appointed to offices in their respective brigades, and accepting the same, to the commander in chief, to the end that commissions may be issued to them.

Appeal.

§ 24. Every person thinking himself aggrieved by the proceedings at any election for a commissioned officer, may appeal, if the election be for a brigadier-general, to the commander in chief, and in other cases, to the commanding officer of the brigade, to which such person belongs.

Ib.

§ 25. The officer appealed to, shall have power to administer oaths, and shall hear and determine the appeal; and if, in his opinion, the proceedings at such election are illegal, he shall declare the election void, and shall order an election to be held without delay for a new choice.

Ib.

§ 26. Any person concerned, may appeal from the decision of the commanding officer of the brigade, to the commander in chief, who shall hear and determine such appeal, and in case it shall be necessary, order a new election.

Rules as to  
Elections and  
appeals.

§ 27. The commander in chief may make such rules and regulations, relative to elections and appeals, as he shall deem necessary and proper, to give full effect to the provisions of the constitution, and of this Chapter.

Oath of of-  
fice

§ 28. Every officer duly commissioned, before he enters on the discharge of the duties of his office, shall take and subscribe the oath prescribed in the constitution of this state.

Ib.

§ 29. Every commissioned officer shall take and subscribe such oath, before a judge of some court of record in this state, county clerk, commissioner to take affidavits, or some general or field officer who has previously taken it himself, and who is hereby authorised to administer the same.

Ib.

§ 30. A certificate of the oath shall be endorsed, by the officer administering the same, on the commission.

Ib.

§ 31. No fee shall be received for administering any such oath, or endorsing such certificate.

Other elec-  
tions.

§ 32. Any company or troop, may, at any meeting thereof, elect non-commissioned officers to fill any vacancy therein.

Ib.

§ 33. Such election shall be directed and conducted by the commanding officer of such company or troop, for the time being, who

shall certify the names of the persons elected, to the commanding officer of the regiment or separate battalion, to which the company or troop belongs. TITLE 3.

§ 34. Such commanding officer shall decide upon the legality of the election, and issue warrants to the persons duly elected.

§ 35. The commandants of companies or troops may, whenever they deem it necessary, call a special meeting of their respective companies or troops, for an election of non-commissioned officers.

§ 36. A majority of the votes of all the persons present, at an election of brigadier-general, shall be necessary to a choice; in all other cases, a plurality shall be sufficient. Majority and plurality.

§ 37. The commanding officers of brigades, may accept the resignations of all commissioned officers in their respective brigades; but no resignation of any captain, or subaltern shall be accepted, until the same shall have been approved of by the commanding officer of the regiment, to which the officer so resigning may belong. Resignations.

§ 38. The commanding officer of a brigade on accepting any resignation, shall forthwith communicate the same to the commandant of the regiment to which the officer resigning may belong; and if any such officer be a subaltern, he shall also communicate the same to the commandant of his company.

§ 39. The commander in chief may accept the resignation of any officer, whose resignation the commanding officer of a brigade is not authorized to accept; and he may also accept the resignation of any officer, whose resignation the commanding officer of his brigade, shall have refused to accept.

§ 40. On accepting the resignation of any officer, the commander in chief shall cause the necessary notices and orders to be given, for an election to fill the vacancy so created.

§ 41. Every officer who shall remove out of the bounds of his command, (unless such command shall be in any of the cities of this state); and every officer who shall be absent from his command twelve months, without leave of the commanding officer of his brigade, shall be considered as having vacated his office; and a new election shall be held without delay, to fill the vacancy so created. Removal from bounds of command.

### TITLE III.

#### OF THE ENROLMENT OF PERSONS SUBJECT TO MILITARY DUTY.

Sec. 1. Commandants of companies to enrol persons subject to military duty.

2. Notice to such persons to attend training, deemed a legal notice of enrolment.

## TITLE 3. SEC. 3. Persons enrolled to be provided with arms, &amp;c.



4. Age and ability to bear arms determined by commandant of company ; an appeal lies to commandant of regiment.
5. Persons claiming exemption by reason of inability, to produce certificate of surgeon.
6. Tavern-keepers, &c. to give account of their boarders.
7. Twenty-five dollars penalty for not giving account, or for giving a false one.
8. Commandants of companies may enrol musicians.
9. Privileges and liabilities of persons so enrolled.
10. After such enrolment, musician not to enlist in any other company.

**Enrolment.** § 1. The commanding officer of each company of infantry shall, from time to time, enrol all persons within the limits of his company, who may be subject to military duty ; and shall, without delay, notify such persons of their enrolment.

**16.** § 2. Every notice or warning to a person so enrolled, to attend a company, battalion, or regimental muster or training, pursuant to the provisions of this Chapter, shall be deemed a legal notice of his enrolment.

**Duty of persons enrolled.** § 3. Every person duly enrolled, shall be provided, within six months from and after he shall be duly notified of his enrolment, with arms, accoutrements and ammunition, agreeably to the directions of the laws of the United States.

**Age and ability.** § 4. The age and ability to bear arms, of every person so enrolled, shall be determined by the commandant of such company, subject to an appeal to the commanding officer of the regiment ; but the decision of neither of these officers, shall prevent a court-martial from determining, whether such person was properly enrolled.

**Surgeon's certificate.** § 5. Persons claiming to be exempted from enrolment, by reason of inability to bear arms, may produce the certificate of a surgeon, or surgeon's mate, as evidence of such inability ; but such certificate shall not be conclusive, nor shall it be lawful for the person giving the same, to take any fee or reward therefor.

**Duty of tavern keepers, &c.** § 6. All tavern-keepers, keepers of boarding-houses, persons having boarders in their families, and house-keepers, upon their being thereto requested by the commanding officer of the company within the beat of which they reside, shall give to such commanding officer, a true account of all persons lodging or boarding with them, and of their names, if known, to the end that such persons as are liable to do military duty, may be enrolled according to law.

**16.** § 7. If any person of whom such account is so demanded, shall refuse to give such account and names, or shall wilfully give a false account, he shall forfeit and pay twenty-five dollars, to be recovered by the commanding officer of the regiment, for the use of his regiment-

**Musicians.** § 8. Every commandant of a company, may enrol as musicians in his company, at least two, and not more than five persons residing in his beat, who are desirous to be so enrolled.

§ 9. The persons so enrolled, shall perform the duty of musicians in such company, instead of serving as privates therein, and shall respectively be entitled to the same privileges and exemptions, as non-commissioned officers and privates, in uniform companies, and shall be subject to the same fines and penalties, for the non-performance of their duty, as non-commissioned officers are liable to, for absence from a parade. ART. 1.

§ 10. No such musician after being enrolled, shall enlist into any other company, without the written consent of the commanding officer of the company, to which he belongs.

**TITLE IV.**

OF THE ORGANIZATION, UNIFORM AND DISCIPLINE OF THE MILITIA.

ART. 1.—Of the general organization of the militia, and their uniform and discipline.

ART. 2.—Of the organization of the staff departments.

ART. 3.—Of the organization of bands of musicians.

**ARTICLE FIRST.**

*Of the general Organization of the Militia, and their Uniform and Discipline.*

- Sec. 1. Militia organized according to laws of United States.
- 2. Subject to such laws, commander in chief may arrange militia.
- 3. He may transform cavalry to light artillery.
- 4. Commandants of brigades may alter regiments, &c. under their command.
- 5. Such alterations to be reported to commander in chief.
- 6. Officers rendered supernumeraries by such alterations, not to lose their rank in line. if they give notice of their intention of retaining it.
- 7. Supernumeraries to equip and attend parades, &c.
- 8. With the consent of commandant of brigade, troops of cavalry or companies of riflemen, &c. may be formed.
- 9. Before commandant gives such consent, he shall be satisfied that they intend in good faith to serve.
- 10. Every troop, &c. that has not 40 privates at any annual inspection, &c. to be reported to commandant of brigade.
- 11. If 40 do not appear at such inspection, proof to be required that that number belong to company, &c.
- 12 & 13. Where such company is deficient in numbers, commandant of brigade shall disband the same.
- 14. Riflemen not formed into battalions or regiments, considered part of infantry.
- 15. Regiments and battalions of riflemen, &c. not formed into brigades, considered part of infantry.
- 16. No non-commissioned officer, musician or private, to leave uniform company without consent of commandant.
- 17. Commandants of uniform company to make return to commandants of infantry companies, of the persons enlisted in their companies.
- 18. Contents and effect of return.
- 19. Whenever an able-bodied man is discharged from an uniform company, notice to be given to commandant of infantry company in whose beat he resides.
- 20. Last three sections not to extend to New-York.
- 21. Persons under 21 years of age, not to join any uniform company, without consent of parent, &c.
- 22. Uniform of the infantry.
- 23. Discipline to conform as near as may be to that of United States army; books prescribed.
- 24. Commander in chief to direct the guide for artillery.

**TITLE 4.**  
**General or-**  
**ganisation.**

§ 1. The organization of the militia, in divisions, brigades, regiments, battalions, squadrons, troops, and companies, shall be conform- ed to the provisions of the laws of the United States.

ib. § 2. Subject to such laws, the commander in chief may arrange, alter, divide, annex and consolidate the divisions, brigades, regiments, battalions, squadrons, troops and companies, in such manner as, in his opinion, the proper organization of the same shall require.

ib. § 3. The commander in chief may transform any part of the cav- alry to light artillery, and when so transformed, they shall arm and equip as cavalry, and be liable to do duty as such, or as light artille- ry, as the commander in chief shall, from time to time, direct.

**Powers of**  
**brigadier.**

§ 4. The commanding officer of each brigade, with the approba- tion of the commanding officer of his division, may divide, annex, or alter the bounds of, the several regiments, or separate battalions un- der his command; and in all cases of alterations in the bounds of any regiment, that part containing the major part of the companies of any one regiment, shall retain its name, number and rank.

ib. § 5. All such alterations shall be reported to the commander in chief, and remain in force until he shall otherwise direct.

**Supernume-**  
**ries.**

§ 6. Every officer rendered supernumerary by any consolidation or alteration of regiments, separate battalions, squadrons, troops, or companies, shall be deemed to have resigned his commission, unless he shall give written notice of his intention to retain his rank in the line, to the commanding officer of the brigade to which he belonged, within thirty days after such consolidation or alteration, shall be pub- lished in general orders.

ib. § 7. Supernumerary officers shall equip themselves, and those un- der the rank of colonel, shall attend the parades and drill trainings the officers and non-commissioned officers.

**Troops and**  
**uniform com-**  
**panies.**

§ 8. Whenever forty persons, subject to military duty, shall as- sociate together for the purpose of forming a troop of cavalry, or a com- pany of riflemen, grenadiers, light infantry, artillery, or light artillery, and with the consent of the commanding officer of the brigade, shall apply to the commander in chief to be organized as such, the com- mander in chief may so organize them; and such persons as a ma- jority of the applicants shall have designated in their application, shall be commissioned as the officers of such troop or company; but no ar- tillery company shall be organized by the commander in chief, unless the commissary-general shall have on hand a proper piece of artillery and its equipage, ready to be delivered to such company.

ib. § 9. Every commanding officer of a brigade, before he shall con- sent to any such application, shall require satisfactory evidence, that



the persons making the same, intend, in good faith, to serve, when organized; and that they are of sufficient ability to equip themselves, according to law. ART. 1.

§ 10. Every troop of cavalry, and every company of artillery, light artillery, riflemen, light infantry, or grenadiers, which shall not, at any annual inspection and review, have at least forty privates mounted, or armed and equipped, as the law directs, shall be immediately reported by the inspector, or officer acting as such, to the commandant of the brigade to which such troop or company belongs. When to be reported.

§ 11. If forty privates shall not so appear at such inspection and review, the inspector shall require proof, that there are privates belonging to such company, or troop, properly mounted, or armed and equipped, sufficient to complete the whole number of forty. Such proof may be made by the certificate, on honor, of a commissioned officer, or by the oath of a non-commissioned officer, or private. Proof required.

§ 12. The commandant of a brigade, to whom a company, or troop, shall be reported as deficient in number, shall thereupon disband the same, in orders, unless he shall have reason to believe that such company, or troop, will have forty privates, present and absent, mounted, or armed and equipped, as aforesaid, at the next succeeding inspection and review. When disbanded.

§ 13. In case such company, or troop, at the next inspection and review, shall have, absent and present, the number above required, mounted, or armed and equipped, it shall not be disbanded; but if otherwise, the commandant of the brigade shall, without delay, disband the same.

§ 14. All companies of riflemen, not formed into separate battalions, or regiments, shall, for all the purposes of this Chapter, be considered as a part of the regiments or separate battalions of infantry, in the bounds of which they are situated. Riflemen.

§ 15. All regiments and separate battalions of riflemen, cavalry, artillery, or light artillery, not formed into brigades, shall, for the purposes of this Chapter, be considered as a part of the brigade of infantry, in the bounds of which the commandants of such regiments, or separate battalions, shall respectively reside. Riflemen, cavalry, &c.

§ 16. No non-commissioned officer, musician, or private, belonging to any troop of cavalry, or company of artillery, light artillery, grenadiers, riflemen, or light infantry, shall leave the troop, or company, to which he belongs, to serve as a fireman, in any fire company now raised, or hereafter to be raised in any city or county; nor shall he leave such troop, or company, and enlist in any other, without the written consent of the commandant of the troop, or company, to which Prohibition against leaving troop, &c.

**TITLE 10.** *Secs. 159.* Upon execution issued upon judgment of a justice, if no sufficient property found to satisfy it, defendant to be committed for sixty days.

160. If defendant found without walls of jail, within that time, sheriff liable for an escape.

161. When penalty is imposed under this Title for a trespass, and a private person injured, he may recover damages against trespasser.

162. Expenses for stationary, &c. of different officers, and printing, to be paid out of treasury.

163. Comptroller to cause to be printed and distributed as many copies of this Title as he shall judge necessary.

"Reservation" defined.

§ 151. Whenever the term "reservation," occurs in the second, third, fourth, fifth and sixth Articles of this Title, it shall be construed to extend to the whole of the original reservation for the use of the salt springs.

"Manufacturer," defined.

§ 152. The term "manufacturer," whenever it shall occur in the above mentioned Articles of this Title, shall be construed to apply to every person having, at the time, the charge, direction or control of a manufactory, whether as owner or proprietor thereof, or by lease or hiring from such proprietor.

Privileges of officers.

§ 153. The superintendent and inspector, and each of their deputies, and all persons employed in attendance upon any works for the manufacturing of coarse salt, shall be exempt from serving on juries, and from all military service, except in case of actual invasion or insurrection; and the commission or appointment in writing, of any such officer or deputy, and the certificate of any owner or agent of any coarse-salt-manufactory, that any person is employed or engaged in attending upon such manufactory, shall be evidence of the facts stated therein.

Process how served.

§ 154. Any process by which the defendant's body is ordered to be taken, in any action brought for any forfeiture or penalty under this Title, may be issued and served on Sunday, and the defendant held in custody, for trial, until a reasonable time on the day following, if such process be issued by a justice of the peace; but if issued from any court of record, then the defendant shall be detained, until he shall give bail, as in actions where defendants are held to bail.

And by whom.

§ 155. If no civil officer be present, to serve any such process, the superintendent or inspector, or either of their deputies, shall be, and they are hereby respectively authorised to serve such process, whether the same be issued and served on Sunday, or any other day.

Bail thereupon.

§ 156. In case process issued out of any court of record, shall be so served, bail shall be taken in the name of the sheriff, in the same manner as though such process had been served by one of his deputies; but the sheriff shall not be responsible for the sufficiency of such bail, unless the defendant shall have been actually committed to jail, in which case he shall be responsible as in other cases.

ARTICLE SECOND.

ART. 2.

*Of the Organization of the Staff Departments.*

- Sec. 25.** Commander in chief entitled to three aids, and military secretary.  
**26.** Major-general entitled to two, and brigadier-general to one aid.  
**27.** Adjutant-general has rank of brigadier-general ; officers in his department, and their rank.  
**28.** Officers and their rank in the quarter-master-general's department.  
**29.** Officers and their rank in the paymaster-general's department.  
**30.** Commissary-general to have the rank of brigadier-general ; military store-keepers in his department.  
**31.** Officers in the hospital department.  
**32.** Chaplain to each regiment and separate battalion.  
**33.** Officers and their rank in judge-advocate-general's department.  
**34.** Sergeant-majors, &c.  
**35.** Chief of each staff department, to have command over officers of his department.  
**36.** Such chief to prepare and transmit all blank forms of returns.

§ 25. The commander in chief shall be entitled to three aids, with <sup>Aids</sup> the rank of colonel, and a military secretary, with the rank of major.

§ 26. Each major-general shall be entitled to two aids, with the rank of major ; and each brigadier-general to one aid, with the rank of captain.

§ 27. The adjutant-general shall have the rank of brigadier-general ; and in his department there shall be to each division a division inspector, with the rank of colonel ; to each brigade, a brigade inspector, to serve also as a brigade major, with the rank of major ; and to each regiment and separate battalion, an adjutant, with the rank of lieutenant.

§ 28. In the quarter-master-general's department, there shall be a quarter-master-general, with the rank of brigadier-general ; to each division, a division quarter-master, with the rank of lieutenant-colonel ; to each brigade, a brigade quarter-master, with the rank of captain ; and to each regiment and separate battalion, a quarter-master, with the rank of lieutenant.

§ 29. In the pay-master-general's department, there shall be a pay-master-general, with the rank of colonel ; to each division, a division pay-master, with the rank of major ; to each brigade, a brigade pay-master, with the rank of captain ; and to each regiment and separate battalion, a pay-master, with the rank of lieutenant.

§ 30. The commissary-general shall have the rank of brigadier-general : and in his department there shall be so many military store-keepers for the safe keeping and the preserving of the state arsenals, magazines, fortifications, and military stores belonging to this state, as he may find it necessary to appoint, not exceeding one to each arsenal, and one for the fortifications at Fort Richmond, on Staten Island.

TITLE 4  
Hospital de  
partiment.

§ 31. In the hospital department, there shall be a surgeon-general, with the rank of colonel; to each division, a hospital surgeon, with the rank of lieutenant-colonel; to each brigade, a hospital surgeon, with the rank of major; to each regiment, a surgeon, with the rank of captain; and to each regiment and separate battalion, a surgeon's mate, with the rank of lieutenant; but such rank shall not entitle said officers to promotions in the line, nor regulate their pay or rations in service.

§ 32. To each regiment and separate battalion, there shall be appointed one chaplain.

§ 33. In the judge-advocate's department, there shall be a judge-advocate-general, with the rank of brigadier-general; to each division, a judge-advocate, with the rank of colonel; and to each brigade and separate judge-advocate, with the rank of major.

§ 34. There shall be in each regiment and separate battalion, one sergeant-major, one quartermaster-sergeant, one drum-major, and one commissary, and in each regiment and separate battalion of light artillery, one quartermaster-sergeant.

§ 35. The chief of each staff department shall, under the direction of the commanding officer, have command over all subordinate officers in his department, and shall transmit to the issue orders and regulations of their government and practice.

§ 36. Each chief of such department shall prepare and transmit to the commanding officer, such reports, returns, receipts, and other documents necessary in his department.

ARTICLE THIRD.

*Of the Organization of Bands of Musicians.*

- 37. The commanding officer of each regiment, &c. may organize a band of musicians.
- 38. Such musicians subject to the orders of their leader, and under the command of the commanding officer of regiment, &c.
- 39. Leader to make return of delinquent members of band.
- 40. Such return received as evidence.
- 41. Commanding officer to make return of delinquents in band.
- 42. He may disband such band.

§ 37. The commanding officer of each regiment or separate battalion may organize a band of musicians, not exceeding sixteen in number, and by warrant under his hand, may appoint a leader of such band.

§ 38. Such musicians shall be subject to the orders of such leader, and shall be under the command of the commanding officer of the regiment or separate battalion; and the whole or any part of said band may be ordered by such commanding officer, to appear at any meeting of the military purposes, and at the review and inspection of such separate battalion.

§ 39. The leader of each band shall, whenever required by such commanding officer, make returns to him of the warning of the members of his band, and of the delinquents and delinquencies therein; which returns shall be duly authenticated by the oath of such leader, taken before a field officer of such regiment or separate battalion.

TITLE 5.  
Returns.

§ 40. Such return, so sworn to, shall be received as evidence in all cases, in the same manner as like returns of non-commissioned officers of infantry companies.

§ 41. Such commanding officer shall make the like returns of all such delinquents and delinquencies, as in cases of non-commissioned officers and musicians in companies of infantry, and with the like effect; and the courts-martial shall impose the like penalties on such delinquent members of each band.

§ 42. The commanding officer of such regiment or separate battalion, shall have authority to disband such band, whether now or hereafter established, and to revoke the warrant of its leader.

Band may be disbanded.

## TITLE V.

### OF THE SEVERAL PARADES AND RENDEZVOUS OF THE MILITIA.

- Sec. 1. When and where militia to rendezvous.
2. Uniform companies and troops when to rendezvous.
3. Commandants of brigades of cavalry, &c. may require the corps under their command to meet.
4. Commandants of brigades of artillery may dispense with annual review.
5. They shall give notice thereof to commandants of brigades of infantry.
6. Commandants of brigades of infantry may, in such case, require such of the artillery as are within their beat, to meet in review.
7. They shall, on the day of such review, have command of such artillery.
8. Commandants of brigades of infantry to give notice to commandant of division, of time and place of reviews.
9. Commandant of division to attend reviews.
10. Commandants of brigades, with their staff, to attend reviews.
11. Commissioned, non-commissioned officers and musicians of regiments, to rendezvous two days in succession annually.
12. On first day, brigade inspector to attend.
13. If inconvenient for officers of any brigade of cavalry or artillery, to rendezvous together, they may rendezvous a part at one time and a part at another.
14. Officers may be required to rendezvous one day in addition to above.
15. Parades of officers may be by brigades, instead of regiments.
16. Commandant of regiment to prescribe how officers are to appear at such parades, &c.
17. He shall report all absences.
18. Commandants of companies to issue their warrants to their non-commissioned officers, to warn privates, &c.
19. Such non-commissioned officer to warn persons required by warrant.
20. He shall make return to his commandant.
21. Commandant to make return to proper court-martial.
22. Return of non-commissioned officer, evidence.
23. Commandants to make return of delinquent non-commissioned officers.
24. Commissioned officers may warn without warrant.
25. Tavern-keepers, &c. to give names of boarders.
26. Twenty-five dollars penalty for refusing to give account, or for giving a false one.
27. On parade days, militia considered under arms from sunrise to sundown; exempt from arrest during that time.

**TITLE 5.** **Sec. 28.** Commandants to report to court-martial, all persons who discharge fire-arms on parade day; also for disobedience of orders, &c.

29. Commanding officer at parade may put disorderly persons under guard.  
 30. Bounds of parade ground to be designated so as not to obstruct travellers.  
 31. Liquor and gambling tables brought on parade ground, may be destroyed.  
 32. No parades on election days; \$500 forfeiture for ordering one.  
 33. Commandants of companies to report delinquents on parade days.  
 34. Commandants of regiments, &c. to report delinquents at officer parades.  
 35. In case of invasion, militia may be ordered out.  
 36. Officer ordering, to give notice of invasion to his commanding officer.  
 37 & 38. Commandants of regiments, &c. within whose limits an insurrection happens, to assemble their troops, and give notice of insurrection.  
 39. Judge to whom notice given, may require additional forces to quell it.  
 40. Persons wounded in service of state, provided for at its expense.  
 41, 42 & 43. How drafts from the militia made, when ordered by president or commander in chief.  
 44. Persons drafted may offer substitutes.  
 45. Commander in chief to prescribe rules relative to distribution of arms, &c. when militia called into service.



Times of pa-  
rade.

§ 1. The militia shall rendezvous as follows:

1. By companies in their respective beats, on the first Monday of September in every year, at nine o'clock in the forenoon, for the purpose of training, disciplining, and improving in martial exercise.
2. By regiments or separate battalions, once in each year, between the first of September and the fifteenth of October, at such time and place in their respective beats, as the commanding officer of the brigade shall direct, for the purpose of inspection, review and martial exercise.
3. At such other times and places, either by regiments, battalions, companies or troops, as the case may require, as shall be directed in any order of the proper authority, calling into the service of the United States or of this state, the whole or any portion of the militia.

Inf. uniform  
companies.

§ 2. It shall be the duty of all uniform companies and troops, to rendezvous by companies within their respective beats, in addition to the general rendezvous on the first Monday of September, one day in each year, at such time and place as their respective commandants may direct.

Cavalry pa-  
rades.

§ 3. In all cases, where the commanding officers of brigades of cavalry or artillery, shall consider it expedient, they may require the corps under their respective commands to meet by regiments or battalions at any parade, which may be required for the purpose of improvement or inspection.

Artillery pa-  
rade dispens-  
ed with.

§ 4. If the commandant of any brigade of artillery shall deem it impracticable or inconvenient, for any regiment or battalion under his command, to parade for annual inspection and review, he may dispense with such inspection and review.

Inf.

§ 5. He shall, in such case, on or before the fifteenth day of July, in each year, notify the commanding officers of the several brigades of infantry, within the beats of which the commanding officer of any company, belonging to such regiment or battalion, shall reside, that

such regiment or battalion will not be ordered to meet for inspection and review. TITLE 5.

§ 6. The commandants of brigades of infantry, shall in such cases, require the companies of artillery belonging to such regiment or battalion, to meet for inspection and review, with the regiment or separate battalion of infantry, within whose beat the commanding officers of the respective companies of artillery reside. Artillery when to parade with infantry.

§ 7. The commanding officers of regiments and separate battalions of infantry, shall, on the day of annual inspection and review, have the command of every such company of artillery, and shall give the like previous orders, and make the same returns of delinquents and deficiencies, with the like effect, as if such company belonged to the infantry under their command ; but such returns shall be made to the court-martial of the corps to which the company belongs. Command on days of review.

§ 8. The commandant of each brigade, shall give notice to the commandant of the division, of the times and places of the annual inspection and review, of the several regiments and separate battalions in his brigade. Notice of review.

§ 9. Each commandant of division, shall attend the review and inspection, of the several regiments and separate battalions of at least one of the brigades in his division, in each year ; and he shall require the officers of the division staff, armed and equipped as the law directs, to accompany him. He shall so attend such reviews and inspections in each brigade of his division, in succession. Commandant of division.

§ 10. The commandant of each brigade shall attend with the officers of the brigade staff, armed and equipped as the law directs, the annual inspection and review of the several regiments and separate battalions in his brigade. Commandant of brigade.

§ 11. The commissioned and non-commissioned officers and musicians of each regiment and separate battalion, shall rendezvous within their respective beats two days successively, between the first day of June and the first day of September in each year, for the purpose of training, disciplining, and improving in martial exercise. The days and places of rendezvous, shall be prescribed by the commanding officer of the brigade. Officers parade.

§ 12. On the first day of such rendezvous, the brigade-inspector shall attend, to superintend the exercise and manœuvres, and to introduce the system of discipline, which is or shall be prescribed by law ; and on such day, he shall take the command as drill-officer, so far as shall be necessary to the execution of those duties. Duty of brigade-inspector.

§ 13. If the commanding officer of any brigade of cavalry or artillery, shall deem it inconvenient for all the commissioned and non- Officers of cavalry, &c.

**TITLE 5.** commissioned officers and musicians of any regiment or battalion in such brigade, to rendezvous at the same time and place, he may order them to rendezvous, a part at one time and place, and a part at another ; at each of which places, the brigade-inspector of such corps shall, if practicable, attend.

Additional  
parade of off-  
cers.

§ 14. The commanding officer of any regiment or separate battalion, in addition to the rendezvous above prescribed, may require the commissioned and non-commissioned officers and musicians, to meet once in each year, for exercise and improvement, at such time and place as he shall appoint.

May be by  
brigades.

§ 15. The commandant of each brigade, by and with the consent of all the field officers, may require the parades of the officers, non-commissioned officers and musicians, to be held by brigades, if he shall deem it expedient, in lieu of the regimental or battalion rendezvous.

How to ap-  
pear.

§ 16. The commandant of each regiment or separate battalion, may require the commissioned and non-commissioned officers, at any rendezvous of such officers and musicians, to appear with such arms and accoutrements as he may prescribe ; and he may require them to perform every duty, belonging to commissioned and non-commissioned officers, or to privates.

Delinquen-  
cies.

§ 17. Such commandant shall report all absences and deficiencies, to the president of the proper court-martial.

Warrant to  
warn for pa-  
rade.

§ 18. For the purpose of warning the non-commissioned officers, musicians and privates, to any parade or place of rendezvous required by law, the commandant of each company shall issue his warrant under his hand, to his non-commissioned officers, or to such of them as he may deem proper, requiring them respectively to warn all persons subject to military duty within a certain district, to be designated in such warrant, or all persons named in the warrant, as such commandant may elect, to appear at such parade or place of rendezvous, armed and equipped as the law directs.

How served.

§ 19. Each non-commissioned officer, to whom such warrant shall be directed, shall warn every person theretofore enrolled or enlisted, whom he shall be therein required to warn, by reading the warrant, or stating the substance thereof, in the hearing of such person ; or in case of his absence, by leaving a notice thereof at his usual place of abode, with some person of suitable age and discretion, or affixing the same on the outer door of the house, in case no such person can be found therein. Such notice shall be signed by the non-commissioned officer making the service, and when so left or affixed, shall have the like effect as if the person to whom the same shall be directed, had been personally warned.



§ 20. Such non-commissioned officer shall deliver the warrant to his commandant, with a return, in which he shall state the names of all persons by him warned, and the manner of warning them respectively, and he shall make oath to the truth of such return; which oath shall be administered by the commandant, and certified by him on the warrant or return.

TITLE 5.  
How returned.

§ 21. Such commandant shall deliver the warrant and return, together with his own return of all delinquents and delinquencies, to the president of the proper court-martial.

1b.

§ 22. The return of such non-commissioned officer, so sworn to and certified, shall be as good evidence on the trial of any person returned as a delinquent, of the facts therein stated, as if such officer had testified to the same before the court-martial, on such trial.

Return, evidence.

§ 23. Every commandant of a company shall make the like return, upon honor, and with like effect, of every delinquency and neglect of duty of his non-commissioned officers, either in not attending on parade, or not executing or returning a warrant to them directed, or not obeying the orders of their commanding officers.

Return of officers delinquent.

§ 24. Any commissioned officer of a company may, without a warrant, warn any or all of the persons subject to military duty, within the beat of the company, to appear at any parade or place of rendezvous. Such warning may be given by him, either personally, or by leaving or affixing a notice, in the same manner as if given by a non-commissioned officer; and his certificate, upon honor, shall be received by any court-martial, as legal evidence of such warning.

Officers may warn.

§ 25. All tavern-keepers, keepers of boarding-houses, persons having boarders in their families, and house-keepers, upon their being thereto requested by the commandant of the company within the beat of which they reside, or by the non-commissioned officer of any such company, having a warrant from such commanding officer, to warn persons to attend any parade, shall give to such commanding officer, or non-commissioned officer, a true account of all persons lodging or boarding with them, and of their names, if known; to the end that such persons as are liable to do military duty, may be warned to rendezvous, according to law.

Duty of tavern-keepers, &c.

§ 26. If any person, of whom such account is so demanded, shall refuse to give such account and names, or shall wilfully give a false account, he shall forfeit and pay twenty-five dollars, to be recovered by the commandant of the regiment, for the use of his regiment.

Penalty

§ 27. For the purpose of preserving order on the day of parade, the militia shall be considered as under arms from the rising of the sun, to its setting on the same day; and shall be exempted from arrest on civil process, during that time.

Time of parade.

## TITLE 5.

  
Powers of  
commandants.

§ 28. Every commandant of a company or troop, in addition to putting under guard, as he is hereby authorised to do, and the exercise of the usual military powers with which he is hereby vested, shall return to the president of the proper court-martial, the names of all persons in the company or troop, who shall have discharged any fire-arms on such day, within two miles of such parade, without the order or permission of a commissioned officer, or officer acting as such; and also the names of every non-commissioned officer, musician or private, who shall, on such day, refuse or neglect to obey the orders of his superior officer, or to perform such military duty or exercise as may be required; or depart from his colors, post, or guard; or leave the ranks, without permission from his superior officer.

ib. § 29. The commanding officer present at any parade, may put under guard, any by-stander, or spectator, who shall abuse, molest, or strike, any one when on parade, or under arms.

Parade  
ground.

§ 30. Such commanding officer shall, on the day on which any parade or rendezvous is to be held, and previous thereto, cause the bounds of the parade ground to be designated, in such manner as not to obstruct the passage of travellers on any public highway.

Encroach-  
ment and nu-  
sances there-  
on.

§ 31. If any person, during parade, shall encroach on the bounds of the parade ground, previously designated; or shall, then and there, sell, or offer to sell, or give away, any spirituous liquors, without permission of the commanding officer; or shall have in his possession any gambling table, or other gambling device; such person may be put and kept under guard by such commander, until the setting of the sun on the same day; and such liquor, gambling table, or other gambling device, may be abated, or destroyed, as a nuisance, by order of the commandant.

No parade  
on election  
day.

§ 32. No parade or rendezvous of the militia, shall be ordered on any day during which a general or special election shall be held, nor within five days previous to such election, except in cases of invasion or insurrection, or of imminent danger thereof; and if any officer shall order any such parade, or rendezvous, he shall forfeit and pay to the people of this state, the sum of five hundred dollars.

Delinquen-  
cies to be re-  
ported.

§ 33. Every commandant of a company, or troop, within any regiment or separate battalion, shall, within fifteen days after any parade, furnish the president of the proper court-martial, with a return of all persons belonging to his company, or troop, who shall have been, at such parade, delinquent in the performance of duty, or deficient in the equipments, or uniform, required by law, or who by any means, shall have incurred any fine or penalty, under this Chapter.

ib.

§ 34. The commandant of every regiment or separate battalion, within ten days after a regimental or battalion parade, or rendezvous

of commissioned and non-commissioned officers and musicians, shall furnish the president of the proper court-martial, with a return of all delinquents under the rank of a major, in the staff or line. TITLE 5.

§ 35. In case of any invasion, or of imminent danger thereof, within the limits of any division, brigade, regiment, or separate battalion, it shall be the duty of the commandant of such division, brigade, regiment, or separate battalion, to order out, for the defence of the state, the militia, or any part thereof, under his command. Duty of officers in case of invasion.

§ 36. It shall also be his duty, to give immediate notice of such invasion, and of the circumstances attending the same, to his immediate commanding officer, by whom such information shall be transmitted, with the utmost expedition, to the commander in chief.

§ 37. The commandant of every regiment, or separate battalion, within the limits of which an insurrection may happen, shall immediately assemble his regiment, or battalion, under arms, and with the utmost expedition, shall transmit information of such insurrection, to the commandant of his brigade, and to the commander in chief.

§ 38. He shall also give immediate notice of such insurrection, to any judge of the county in which it shall happen, and shall take such measures for its suppression, as to such judge shall appear most proper and effectual.


§ 39. If the said judge shall deem a greater force requisite to quell the insurrection, he shall require such additional force as he may deem necessary, from the commandant of the division, or of any brigade therein, whose duty it shall be to obey his requisition.

§ 40. Every person, who, whilst in the actual service of this state, shall be wounded or disabled in opposing or suppressing any invasion or insurrection, shall be taken care of and provided for, at the expense of the state. Persons disabled in service.

§ 41. Whenever the president of the United States, or the commander in chief, shall order a draft from the militia for public service, such draft shall be made, in each company in which it is required, by lot, to be determined at a company parade ordered for that purpose. Drafts of militia.

§ 42. Each non-commissioned officer, musician, and private, present at such parade, shall draw, to make up the quota required, and each person drawn shall fill such grade in the militia drafted, as he was entitled to when drawn, in his own company.

§ 43. One of the commissioned officers of the company shall draw for every person subject to the draft, who shall refuse to draw or be absent from the parade, and such draft shall have the like effect, as if the person so refusing or absent, had drawn for himself.

**TITLE 6.**  
  
 Substitutes  
 for persons  
 drafted.

§ 44. Any person so drafted, may offer a substitute, at or after the time of rendezvous of the drafted militia ; and such substitute, if he shall be an able bodied man, of the age of twenty-one years, and shall consent in writing to subject himself to all the duties, fines, forfeitures, and punishments, to which his principal would have been subject, had he personally served, shall be accepted by the commandant of the company of drafted militia, to which his principal may belong.

Duty of com-  
 mander in  
 chief.

§ 45. The commander in chief shall prescribe such rules, orders, and regulations, relative to the distribution of arms, ammunition, and military stores, to the militia when called into actual service, as he may deem proper.

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## TITLE VI.

### OF COURTS OF INQUIRY AND COURTS-MARTIAL.

ART. 1.—Of courts of inquiry and courts-martial for the trial of officers.

ART. 2.—Of regimental and battalion courts-martial.

ART. 3.—General provisions applicable to all courts-martial and courts of inquiry.

#### ARTICLE FIRST.

### *Of Courts of Inquiry and Courts-Martial for the Trial of Of- ficers.*

- SEC. 1. Commander in chief, and of division or brigade, may institute courts of inquiry ; and
2. To consist of not less than three nor more than five commissioned officers.
  3. Courts-martial for the trial of major-generals, ordered by commander in chief, to consist of thirteen officers.
  4. Courts for trial of brigadier-general, ordered by commander in chief, and to consist of nine officers.
  5. Courts for the trial of all other commissioned officers, to consist of seven ; by whom ordered.
  6. No officer to be brought to trial, unless a copy of the charges and specifications, are delivered to him.
- Ordering court may supply vacancies therein.  
 president of court ; challenge to be determined by officer

§ 2. Such courts shall consist of not less than three, nor more than five, commissioned officers, and the president shall, without delay, report a statement of facts to the officer instituting such court, who may, in his discretion, thereupon appoint a court-martial for the trial of the officer whose conduct shall have been inquired into. ART. 1.  
ib.

§ 3. Every court-martial for the trial of a major-general, shall be ordered by the commander in chief, and shall consist of thirteen officers, any nine of whom shall constitute a quorum. Court-martial to try major-general.

§ 4. Every court-martial for the trial of a brigadier-general, shall be ordered by the commander in chief, and shall consist of nine officers, any seven of whom shall constitute a quorum. Ib. to try brigadier-general.

§ 5. All other courts-martial for the trial of commissioned officers, shall consist of seven officers, any five of whom shall constitute a quorum; and shall be ordered, if for the trial of officers above the rank of captain, by the commanding officer of division, and for all other officers, by the commanding officer of brigade. Court-martial to try other officers.

§ 6. No officer arrested shall be brought to trial, unless a copy of the charges and specifications, certified by the officer ordering the arrest, shall be delivered to him, or left at his usual place of abode, within three days after his arrest; nor unless the officer ordering such court-martial, shall have ordered the same within thirty days after receiving notice of the arrest and a copy of the charges and specifications; nor until ten days after a copy of a list of the names of the officers detailed to form the court, shall have been delivered to the officer arrested, or left at his usual place of abode. Copy of charges.

§ 7. The officer ordering the court, may at any time supply any vacancy, that from any cause, may happen therein. Vacancy.

§ 8. If the officer accused shall have any cause of challenge to the president of such court, he shall within a reasonable time after receiving a copy of the charges, and a list of the members, deliver his cause of challenge in writing, to the officer ordering such court, who shall thereupon determine as to the validity of such challenge; and if in his opinion the causes are sufficient, he shall appoint another president of such court. Challenges.

§ 9. After the court shall be assembled, and after all challenges, if any are made, shall have been determined, the judge-advocate, whether commissioned or special, shall administer to each member the following oath: "You do swear that you will faithfully discharge the duties of a member of a court-martial now assembled, according to the best of your ability." Oath.

§ 10. Every judge-advocate, whether commissioned or special, and every member of a court-martial, shall keep secret the sentence of the Secrecy enjoined.

**TITLE 6.** court, until the same shall be approved or disapproved, according to law ; and shall keep secret the vote or opinion of any particular member of the court, unless required to give evidence thereof by a court of justice.

**Sentence.** § 11. The sentence of any such court-martial shall be according to the nature and degree of the offence, and according to military usage ; but shall not extend farther than cashiering the officer convicted, and disqualifying him from holding any office in the militia of this state, and imposing a fine not exceeding one hundred dollars.

**Approved of.** § 12. The proceedings and sentence of every such court-martial, shall without delay, be delivered to the officer ordering the court, who shall approve or disapprove thereof, within fifteen days thereafter, and shall give notice of his approval or disapproval to the president of such court-martial, and to the arresting officer ; and he may, at his discretion, publish the sentence, as approved or disapproved, in orders.

**Transmitted to adjutant-general.** § 13. He shall also transmit such proceedings and sentence, and his approval or disapproval thereof, to the adjutant-general, to be kept in his office.

**Appeal.** § 14. The right of appeal to the commander in chief as it now exists by military usage, is reserved ; but no appeal shall be received, unless made within twenty days after the decision appealed from, is made known to the person appealing.

#### ARTICLE SECOND.

##### *Of Regimental and Battalion Courts-Martial.*

**Sec. 15.** Commandants of regiments and separate battalions to appoint courts-martial to consist of three members.

16. They shall fix day on which court shall convene.

17. They are to fill vacancies in court.

18. President and members to take oath.

19. Justice to administer it to president, and he to members.

20. President to designate person to summon delinquents before court.

21. Person designated, to make return.

22. Court to have trial of all delinquents in regiment or battalion.

23. No fines imposed on a commissioned officer, is to prevent him from being cashiered by brigade court-martial.

24. Court may remit penalty for deficiency in equipments.

25. Sentence of court imposing fine for delinquency, may be appealed from, to officer ordering it.

**How appointed and organized.** § 15. The commandant of each regiment and separate battalion shall on or before the first Monday in June, in every year, appoint a regimental or battalion court-martial, to consist of three members ; one of whom, if practicable, shall be a field officer or captain, and shall be appointed president thereof.

**It.** § 16. The officer appointing the court shall fix the day on which it shall convene, and when convened, the court may adjourn from time to time as shall become necessary for the transaction of business, but

the whole session of the court, from the day on which it shall convene until its dissolution, shall not exceed three weeks. ART. 2.

§ 17. In case any vacancy shall happen in the court, or a new court shall be required, the officer ordering the court, or his successor in command, may fill such vacancy, or order a new court. Vacancy.

§ 18. The president and each member of such court, before he shall enter on his duties as such, shall take the following oath: "I do swear that I will well and truly try and determine, according to evidence, all matters between the people of the state of New-York and any person or persons, which shall come before a regimental (or battalion) court-martial of which I have been appointed president, (or a member.)"

§ 19. Such oath shall be taken by the president, on or before the day on which the court shall convene, before a justice of the county in which he may reside, or a field officer of his regiment or battalion; and it shall be the duty of such justice or field officer, to administer the oath without fee or reward. The president shall administer the oath to each of the members.

§ 20. The president of the court shall direct a non-commissioned officer, or other fit person or persons to be by him designated, to summon all delinquents and parties accused, to appear before the court at a time and place to be by him appointed. Delinquents summoned.

§ 21. Such non-commissioned officer, or other person or persons so designated, shall make the like return and with the like effect, as commissioned and non-commissioned officers are authorised and required to make, in cases of warning to a company or regimental parade, and shall be subject to the like penalties for neglect of duty. Return of summons.

§ 22. The court, when organized, shall have the trial of all delinquents and deficiencies in the regiment or battalion for which it shall have been called; and shall have power to impose and direct to be levied, all the fines to which commissioned officers of companies, and non-commissioned officers, musicians or privates, are declared to be subject in the first Article of the seventh Title of this Chapter. Power of court.

§ 23. No fine imposed by a regimental or battalion court-martial, on a commissioned officer, shall prevent such officer from being tried and cashiered for neglect of duty, by a court-martial ordered by the commandant of his brigade. Effect of fine

§ 24. Every such court-martial may mitigate, or wholly remit any penalty or fine directed to be imposed, for any deficiency in arms or equipments, of any delinquent in any company of infantry, whom the court shall adjudge to be so poor, as not to be able to furnish himself with such arms or equipments. Remission of fine.

**TITLE 6.**  
*Appeal.*

§ 25. From the sentence of any such court imposing a fine on any delinquent, an appeal, if made within twenty days, shall be allowed to the officer instituting the court, who may remit or mitigate such penalty or fine; and in that case he shall give notice thereof to the president of the court, or to the constable or marshal directed to levy such penalty or fine, as the case shall then require.

**ARTICLE THIRD.**

*General Provisions applicable to all Courts-Martial and Courts of Inquiry.*

- SEC. 26. Presidents of courts-martial and of inquiry, and judge-advocates, to issue subpoenas on behalf of all parties.
27. President may administer oaths to witnesses, and may compel their attendance.
28. Penalty for disobeying subpoena.
29. President, under his warrant, may commit persons for contempt of court.
30. Warrant to be directed to sheriff, &c. who is to take and commit person to jail.
31. Sheriff is to receive and keep every person brought to him.
32. In absence of president, senior officer present to preside.
33. President may appoint marshals.
34. Powers and duties of marshals.
35. When sentence is appealed from, officer hearing appeal to require statement of case and evidence.
36. He may hear further evidence.
37. Other cases to which two last sections extend.

*Subpoenas for witnesses.*

§ 26. The president of every court-martial, and of every court of inquiry, both before and after he shall have been sworn, and also the judge-advocate, if required, shall issue subpoenas for all witnesses whose attendance at such court may in his opinion be necessary, in behalf of the people of this state, and also on application, for all witnesses in behalf of any officer charged or accused, or person returned as delinquent; and may direct the commandant of any company, to cause such subpoena to be served on any witness residing within his beat.

*Oaths to witnesses.*

§ 27. The president of such court-martial or court of inquiry, shall have power to administer the usual oath to witnesses, and shall have the same power to compel attending witnesses to be sworn, and testify, and to preserve order, as courts of common law jurisdiction; and all sheriffs, jailors and constables are hereby required to execute any precept issued by such president for that purpose.

*Penalty on witness for non-attendance.*

§ 28. Every witness not appearing in obedience to such subpoena, when duly served, and not having a sufficient or reasonable excuse, shall forfeit to the people of this state a sum not less than ten nor more than fifty dollars; and the president of such court, shall, from time to time, report to the district attorney the names of all such delinquent witnesses, together with the names and places of residence of the persons serving such subpoenas, the better to enable him to prosecute for such forfeiture.



§ 29. Any person or persons who shall be guilty of disorderly, contemptuous, or insolent behaviour in, or use any insulting or contemptuous or indecorous language or expression to or before, any court-martial or court of inquiry or any member of either of such courts, in open court, may be committed to the jail of the county, in which such court shall sit, by warrant under the hand and seal of the president of such court.

ART. 3.  
Contempt of court how punished.

§ 30. Such warrant shall be directed to the sheriff or any or either of the constables and marshals of any such county, or any officer attending the court, and shall command the officer to whom it is directed, to take the body of such person, and to commit him to the jail of the county, there to remain without bail or mainprize, in close confinement, for a time to be limited, not exceeding three days, and until the officer's fees for committing, and the jailor's fees be paid.

§ 31. Such sheriff shall receive the body of any person who shall be brought to him by virtue of such warrant, and keep him until the expiration of the time mentioned in the warrant, and until the officer's and jailor's fees shall be paid, or until the offender shall be discharged by due course of law.

§ 32. In the absence of the president of any court-martial, or court of inquiry, the senior officer present may preside, with all the powers of the president ; and all the members of such courts shall, when on duty, be in full uniform.

When senior officer to preside.

§ 33. The president of any court-martial, or court of inquiry, may appoint by warrant, under his hand and seal, one or more marshals.

Marshals.

§ 34. The marshals so appointed, may not only perform the usual duties of such marshals, but may also execute all process lawfully issued by such president, and perform all acts and duties in this Chapter, imposed on and authorised to be performed by any sheriff, marshal, or constable.

§ 35. Whenever the sentence of any court-martial shall be appealed from, the officer hearing the appeal, shall require the president of the court-martial to furnish him, forthwith, with a statement of the case, and of the evidence touching the same.

Evidence on appeal.

§ 36. Such statement being furnished, the officer appealed to may hear such further evidence as the nature of the case may require ; and for that purpose, he shall have power to administer the usual oaths to witnesses produced before him, except in cases where trials may have been had upon charges preferred.

§ 37. The two last sections shall extend to appeals made from the order of an officer approving the sentence of a court-martial.

TITLE 7.

TITLE VII.

OF PENALTIES, FINES, FEES AND EXPENDITURES.

- ART. 1.—Of the imposition of penalties and fines, for violating the provisions of this Chapter.
- ART. 2.—Of the collection and application of penalties, fines, and commutation money.
- ART. 3.—Of the compensation and fees of the members of courts-martial and other officers.

ARTICLE FIRST.

*Of the Imposition of Penalties and Fines, for violating the Provisions of this Chapter.*

- SEC. 1. Penalty on commissioned officers for disobedience of orders, &c.
- 2. Commissioned officers refusing to pay over monies, liable to be cashiered.
- 3. Fines of officers, musicians and privates, for certain offences.
- 4. Non-commissioned officers, for refusing to act when appointed, to be fined not more than 20 nor less than 5 dollars.
- 5. One dollar fine for discharging fire-arms.
- 6. Penalties on non-commissioned officers and privates for deficiency in equipments.
- 7. Penalty for want of bayonet, belt, &c. not to apply to those who have rifles.
- 8. Penalty for deficiency in equipments in cavalry
- 9. Court may excuse delinquency for reasonable excuse.
- 10. Commandants of companies to cause from the 3d to the 7th sections of this article to be read at every parade.
- 11. No actions to be maintained against members or officers of courts-martial, for the imposition of a fine upon any person regularly summoned and returned delinquent.

Penalties on officers.

§ 1. Every commissioned officer, for disobedience of orders, neglect of duty, unofficer-like conduct, or disrespect to a superior officer, or for neglecting to furnish himself with an uniform and equipments within six months after receiving his commission, shall be arrested and brought to trial before a court-martial, who may, on conviction, sentence him to be cashiered, incapacitated from holding any military commission, and fined to an amount not exceeding one hundred dollars; or may sentence him to any part of such penalties, or to be reprimanded, in their discretion; but no penalty shall be inflicted on any officer, for appearing on parade without an esponton.

1b.

§ 2. Every commissioned officer, refusing to pay over monies in his hands, as is directed in the second Article of this Title, shall be liable to be tried and cashiered, or otherwise punished therefor, by a court-martial.

Fines of officers, musicians and privates.

§ 3. Every commissioned officer of a company, and every non-commissioned officer, musician, and private, shall, on due conviction, be subject, for the following offences, to the fines thereto annexed:

1. Every non-commissioned officer, musician and private, for non-appearance, when duly warned or summoned, at a company parade, a fine of two dollars; at a regimental or battalion parade, or rendezvous of officers, not less than two nor more than five dollars; and at a place of rendezvous, when called into actual service, a sum not exceeding twelve months', nor less than one month's pay.

2. Every non-commissioned officer, musician and private, for neglecting or refusing to obey the orders of his superior officers, on any

day of parade, or to perform such military duty or exercise as may be required, or departing from his colours, post or guard, or leaving his place or ranks, without permission, a fine not more than twenty-five, nor less than two dollars. ART. I.

3. For neglecting or refusing to obey any order or warrant, to him lawfully given or directed, or to make a proper return thereof, if such return be necessary, or making a false return, or neglecting or refusing, when required, to summon a delinquent before a court-martial, or duly to return such summons, a fine not more than twenty-five, nor less than five dollars.

§ 4. Every non-commissioned officer, for neglecting or refusing to act as such, when duly appointed, shall be sentenced to pay a fine not exceeding twenty dollars, nor less than five dollars; and every officer, for neglect of duty, or disorderly or unofficer-like conduct, in addition to other penalties, may be reduced to the ranks by the commandant of the company, with the approbation of the commandant of the regiment or battalion. Non-commissioned officer refusing to act.

§ 5. Every non-commissioned officer, musician or private, who shall unlawfully discharge any fire-arms within two miles of any parade, on the day thereof, shall be sentenced to pay a fine of one dollar. Discharging fire-arms.

§ 6. Every non-commissioned officer and private, appearing without being armed and equipped as the law directs, at any parade or rendezvous, shall be sentenced to pay the following fines, namely: For want of a sufficient sword and belt, if belonging to the artillery or light artillery, and for want of a sufficient musket with a steel rod, or rifle, if belonging to a company of light infantry, grenadiers, riflemen or infantry, one dollar; for want of a sufficient bayonet and belt, twenty-five cents; for want of a pouch, with a box therein, sufficient to contain twenty-four cartridges, suited to the bore of his musket, twenty-five cents; and whenever ordered by the commander in chief, or the commandant of the division, brigade, regiment or separate battalion, so to be equipped on parade, for want of two spare flints and a knapsack, twenty-four cartridges, shot-pouch, powder-horn, twenty balls, and a quarter of a pound of powder, twenty-five cents each; but the whole number of spare flints, of cartridges and of balls, shall be considered each as only one deficiency. Deficiency in equipments.

§ 7. The penalties imposed for want of bayonet, belt, and cartridge-box, shall not apply to any non-commissioned officer, or private, armed with a rifle, and having a powder-horn and pouch. Limitation.

§ 8. Each non-commissioned officer and private, in the cavalry, shall be sentenced to pay, as fines, for want of a sufficient horse, one dollar; for want of a sufficient pair of pistols and holster, one dollar; for want of a sufficient sabre, one dollar; for want of a sufficient saddle, bridle, breast-plate, valise, or cartridge-box, twenty-five cents. Cavalry.

TITLE 7. each ; for want of a sufficient crupper and mail pillion, twelve and a half cents each.

Delinquents when excused.

§ 9. The court-martial by which any delinquent is tried, may excuse such delinquent, if it shall be made satisfactorily to appear to the court, that he has a reasonable excuse for such delinquency.

Part of this article to be read at parade.

§ 10. The commandant of each company, except of cavalry, every company parade, and immediately after the roll-call, shall read or cause to be read, in the hearing of his company, the foregoing sections of this Article, from the third to the seventh, both inclusive.

Action against member of court-martial.

§ 11. No action shall be maintained against any member of a court-martial, or officer or agent acting under its authority, on account of the imposition of a fine, or the execution of a sentence, on a person not liable to military duty, if such person shall have been returned as a delinquent, and duly summoned, and shall have neglected to show his exemption before such court.

#### ARTICLE SECOND.

#### *Of the Collection and Application of Penalties, Fines, and Commutation Money.*

- SEC. 12. All fines to be reported to officer ordering court.
13. Collection of fines enforced by levying upon goods, &c. of delinquent, or by imprisonment of person in jail.
  14. Jailer to whom delinquent delivered, to keep him in close confinement, and for how long.
  15. Officer to whom list of delinquents delivered, to levy the fine or take body.
  16. If unable to do either within the time limited, a new warrant may be issued by president.
  17. Warrants may be renewed like executions from justices' courts.
  18. Monies arising from regimental or battalion courts-martial, to be paid to president of court.
  19. President after deducting costs, &c. to pay surplus to officer ordering court.
  20. He shall, when requested, furnish to officer ordering court, statement of monies received for fines.
  21. Liable to be cashiered for non-compliance with such request.
  22. Presidents to prosecute officers for neglect in execution or return of warrant.
  23. Monies collected for such penalties, how applied.
  24. Penalties for fines upon officers, to be collected by attorney-general or district attorney, and paid into treasury.
  25. Monies received by commandants of regiments and battalions, how applied.
  26. They shall keep an account of monies received and expended by them.
  27. Commandants of brigades to adjust accounts of commandants of regiments, &c.
  28. If commandant of regiment, &c. neglect to pay monies, commandant of brigade to sue for same.
  29. Officers to whom monies are directed to be paid, to sue officers from whom same are due.
  30. Officers suing, may retain reasonable expenses out of money collected.
  31. No objection to juror or witness, that he is a member of a regiment or battalion interested in the action.
  32. Persons entitled to exemption, on paying the commutation fine of \$4, to give notice of intention to do so, to commandant of company.
  33. Commandants of companies to make lists of persons entitled to commutation, and to deliver same to assessor.
  34. Assessor to deliver it to supervisor, and supervisor to board at next meeting.
  35. Supervisors to direct collectors to collect commutation money of such persons.
  36. Such money to be demanded by collector, and if not paid to be levied by distress and sale.
  37. How collected, if person be under age, &c.

Sec. 38 How collected, if he belong to society called Shakers.

39. Collector to pay such fines when collected, to city or county treasurer.

40. Proceedings in case default be made in the payment of the commutation fine.

41. For purposes of this Article, aldermen of New-York deemed supervisors, and the common council the board of supervisors.

ART. 2.

§ 12. All fines that shall be imposed by any regimental or battalion court-martial, shall be reported by the president of the court to the officer ordering it, or to his successor in command, within twenty days after such fines shall have been imposed.

Fines to be reported.

§ 13. For the purpose of collecting such fines, the president of the court shall, within thirty days after the fines have been imposed, make a list of all the persons fined, designating the company to which they respectively belong, and the sums imposed as fines on each person, and shall draw his warrant under his hand and seal, directed to any marshal or constable of any city or county, (as the case may be,) thereby commanding him to levy such fine or fines, together with his costs, of the goods and chattels of such delinquents; and if any such delinquent shall be under age, and live with his father or mother, master or mistress, then to levy such fine or fines, with the costs, of the goods and chattels of such father or mother, master or mistress, as the case may be; and in case the goods and chattels of any delinquent, or the goods and chattels of the father or mother, master or mistress, of any delinquent under age, cannot be found wherewith to satisfy the same, then to take the body of such delinquent, and convey him to the jail of the city or county wherein he shall reside.

How to be collected.

§ 14. It shall be the duty of the jailer to whom such delinquent may be delivered, to keep him closely confined, without bail or mainprize, for ten days, for any fine not exceeding two dollars, and two additional days for every dollar above that sum; unless the fine, together with the costs, and the jailer's fees, shall be sooner paid.

Duty of jailer

§ 15. Every such marshal or constable, to whom any such list and warrant shall be directed and delivered, may execute the same by levying and collecting the fines, or by taking the body of the delinquent, in any city, town or county in this state, and shall make return thereof, within forty days from the receipt of such warrant, to the president who issued the same.

Duty of marshals and constables.

§ 16. If the marshal or constable shall not be able to collect the fines or take the bodies within the forty days aforesaid, then the president issuing the warrant may, at any time thereafter, within two years from the time of imposing the fines, issue a new warrant against any delinquent, or renew the former warrant, from time to time, as may become necessary.

New warrant

§ 17. Any warrant for the collection of fines, issued by virtue of this Chapter, shall and may be renewed, in the same manner that executions issued from justices' courts may by law be renewed.

Warrant renewed.

## TITLE 7.

Monies  
where paid.

§ 18. The monies arising from fines imposed by any regimental or battalion court-martial, shall be paid by the officers collecting the same, to the president of the court.

How applied.

§ 19. Such president, after deducting and paying the costs and fees, properly chargeable on the fines so received by him, shall pay the surplus of such fines to the officer by whom the court shall have been ordered.

When to be  
accounted  
for.

§ 20. Every such president shall from time to time, as often as he shall be required, furnish to the officer ordering the court, or to his successor in command, a correct statement of all monies received by him on account of fines, and of all fines imposed; and it shall be the duty of the officer instituting every such court, or his successor in command, to make such request within seventy days after any such court shall be held.

Penalty for  
neglect.

§ 21. Every such president who shall wilfully neglect or refuse to comply with such request, for the space of ten days, shall be liable to be tried and cashiered therefor.

Suits for pen-  
alties.

§ 22. It shall be the duty of the respective presidents of courts-martial, to prosecute in their own names, any marshal or constable, who shall incur any penalty for neglect in the execution or return of any warrant, or in paying over monies collected by him.

Monies re-  
ceived by  
command-  
ants of reg't.  
how applied.

§ 23. The monies arising from such penalties when collected, shall be paid over and applied, as other monies payable to the commandants of regiments and separate battalions, are directed to be paid over and applied, in this Article.

Duty of at-  
torney-gen.  
and district  
attorney.

§ 24. All penalties and fines imposed by courts-martial, upon commissioned officers, shall be collected by the attorney-general, or by the district attorneys of the counties in which the persons fined may reside, and be paid by the officer collecting the same, into the treasury.

Monies re-  
ceived by  
command-  
ants of reg't.  
how applied.

§ 25. All monies received by each commandant of a regiment or separate battalion, shall be expended under the direction of the field officers and commandants of companies in such regiment or battalion, and shall be applied in the first place, to the purchase and repair of colours and instruments of music, and the residue in disciplining and improving such regiment or battalion, in such manner as a majority of the field officers and commandants of companies shall direct.

How ac-  
counted for.

§ 26. It shall be the duty of each commandant of a regiment or separate battalion, to keep an accurate account of all monies by him received and expended, for the use of the regiment or battalion, and to exhibit such account on request, to any commissioned officer of his regiment or battalion, and to deliver it over to his successor in office.

§ 27. Each commandant of brigade, shall examine and adjust the accounts of the commandants of regiments or separate battalions in his brigade, on or before the first day of May in each year.

ART. 2.  
How accounted for.

§ 28. If the commandant of any regiment or separate battalion shall neglect or refuse to pay any monies belonging to such regiment or battalion, as the field officers and commandants of companies shall have directed, the commandant of brigade shall sue in his own name, for such monies, and apply the same when recovered, to the use of the regiment or battalion.

Proceedings in case of neglect to pay.

§ 29. It shall be the duty of the several officers to whom monies are in this Article directed to be paid, in case of the refusal or neglect of the persons directed to account for and pay over such monies, to sue for the same in their own names, but to the uses before specified, in an action for money had and received.

§ 30. Every officer so suing, may retain out of the money he shall collect, all necessary and reasonable expenses he may incur in such suits.

Expenses of suits.

§ 31. It shall be no objection to any person called as a witness, or to serve as a juror in any action authorised in this Article, that he is a member of the regiment or battalion that may be affected by such action.

Jurors.

§ 32. Every person entitled to be exempt from military duty, on the payment of the commutation fine of four dollars, shall, on or before the first day of April in each year, give notice, in writing, of his intention so to commute, or that he has conscientious scruples against bearing arms, to the commandant of the company of infantry within the beat of which he shall reside, and such notice shall be a sufficient justification for his non-appearance at any parade during the year.

Commutation fine.

§ 33. The commandant of each company of infantry shall, on or before the first day of May, in each year, make out a list of all the persons within his beat who are entitled to commute, and who shall have given such notice, and shall deliver such list, signed by him, to one of the assessors of the towns or wards where such persons shall respectively reside.

List to be made.

§ 34. The assessor receiving such list, shall deliver the same to the supervisor of his town or ward, at the time the assessment roll of such town or ward shall be delivered, and such supervisor shall deliver the list, to the board of supervisors of the county at its next meeting.

Duty of assessor and supervisor.

§ 35. At such meeting, the supervisors shall cause tax lists to be made out, according to the lists so delivered, with warrants thereon, under their hands and seals, directed to the several collectors of the

Duty of board of supervisors.

§ 35. towns or wards, in which the persons named in the lists shall respectively reside, and commanding each collector to levy the sum of four dollars, of the goods and chattels of each person named in the tax list annexed to his warrant.

§ 36. It shall be the duty of each collector, to demand and receive the sum of four dollars from each person so named, and in default of payment, to levy that amount by distress and sale of the goods and chattels of the person neglecting or refusing to pay.

§ 37. If any person named in such tax list shall be under age, and living with his father or mother, or shall then be an apprentice or servant, the father or mother, master or mistress, as the case may be, shall be liable to pay for such person, the sum of four dollars, and in default of payment the collector shall levy that amount by distress and sale of the goods and chattels of such father or mother, master or mistress.

§ 38. If any person on whom such fine shall have been imposed, shall be of the people called Shakers, the society or family to which such person shall belong, shall be liable therefor, and the amount thereof, with costs, shall be levied of the goods and chattels of such society or family.

§ 39. Each collector, within twenty days after such commutation fines shall have been collected by him, shall pay the same, deducting his fees for collection, to the county treasurer.

§ 40. If any person entitled to exemption, on the payment of the commutation fine, shall have neglected to give the notice required, or shall not have been assessed, and shall be returned as a delinquent to any court-martial, a fine shall be imposed on such person equal in amount to the commutation, which fine shall be collected in the same manner as other fines levied by the same court; and every president of a court-martial, to whom any such commutation fine shall be paid, shall pay the same, within twenty days after the receipt thereof, to the treasurer of the county, for the use of the poor thereof.

§ 41. For the purposes of this Article, the alderman of each ward in the city of New-York shall be deemed the supervisor of such ward and the common council of the city, the board of supervisors of the city and county.

ARTICLE THIRD.

*Of the Compensation and Fees of the Members of Courts-martial and other Officers.*

SEC. 42. Compensation of officers and members of courts-martial or courts of inquiry and certain other officers payable out of the treasury.

43. What evidence brigade and division inspectors to furnish, before they receive pay.



Sec. 44. Compensation of officers and members of regimental, &c. courts-martial, payable out of fines received. ART. 3

- 45. No other expenses to be charged on fines received.
- 46. Fees of officer to whom warrant for collection of fines is issued.
- 47. For all other services under this Chapter, sheriff, &c. entitled to same fees as in other cases.
- 48. Accounts payable out of treasury, to be audited by comptroller; those payable out of fines collected, by officer ordering court.
- 49. Comptroller may draw on treasury for money requisite to execute provisions of this Chapter.

§ 42. There shall be allowed and paid out of the treasury :

1. To each division and brigade judge-advocate, and to each president and member of any court of inquiry or court-martial for the trial of officers, two dollars for each day actually employed on duty; and the like compensation to every marshal appointed by any such court, for every day employed in the execution of the duties required of him. Pay of members of courts, &c.
2. To each brigade-inspector, for inspecting a regiment or separate battalion, six dollars; for attending each parade of commissioned and non-commissioned officers and musicians, which he is required by law to attend, six dollars; for making and transmitting to the adjutant-general an inspection return of his brigade, six dollars. Brigade-inspector.
3. To each division-inspector, for making and transmitting annually to the adjutant-general and to the commandant of his division, a division return, six dollars. Division-inspector.
4. To each military store-keeper, such sum, not exceeding twenty-five dollars, as the commander in chief shall think proper to allow. Store-keepers.

§ 43. No payment shall be made to any brigade-inspector, until he shall have furnished evidence to the comptroller, of his having made out and transmitted the inspection return of his brigade to the adjutant-general, and a copy thereof to his division inspector; nor shall any payment be made to a division-inspector, until he shall have furnished like evidence, of his having made out and transmitted his division return to the adjutant-general and the commandant of his division. Inspectors to furnish proof.

§ 44. There shall be allowed and paid out of the fines imposed by each regimental or battalion court-martial, and received by the president thereof : Pay of regimental court-martial.

1. To the president, one dollar and twenty-five cents for each day he may be actually employed in holding the court or engaged in the business thereof.
2. To each member of the court, one dollar and twenty-five cents for each day he may sit as such member, or may be engaged in traveling to or from the court, allowing twenty miles for a day's travel.
3. To the non-commissioned officer or other person who shall have summoned delinquents to appear before the court, one dollar and twenty-five cents for each day he may have been necessarily so employed, and the same sum for each day of his attendance on the court.

TITLE 8.  
Charge on  
fines.

§ 45. No other sums or expenses whatever, shall be charged on the fines received by the president of any such court; but the president, members and officers shall defray their expenses out of the fees allowed to them respectively.

Fees of marshals, &c.

§ 46. Each marshal or constable to whom a warrant for the collection of fines may be directed, shall be entitled to the same fees, and be subject to the same penalties for any neglect, as are allowed and provided for, on executions issued out of justices' courts.

Id.

§ 47. For all other services and commitments under this Chapter, the sheriff, jailer, marshals and constables executing the same, shall be entitled to the like fees as for similar services in other cases.

Accounts under this Article.

§ 48. The accounts of all persons who, under this Article, are entitled to be paid out of the treasury, shall be audited by the comptroller, and of all persons who are entitled to be paid out of the fines imposed by a regimental or battalion court-martial, by the officer ordering the court.

Duty of comptroller.

§ 49. The comptroller, on the application of the governor, may draw his warrant on the treasurer, for such sums of money as may be requisite in the execution of the provisions of this Chapter; and may require the chief of each staff department to account quarterly, for all monies received by him for purposes connected with his department.

## TITLE VIII.

OF THE DUTIES OF CERTAIN STAFF OFFICERS, AND OF VARIOUS MATTERS CONNECTED WITH THEIR RESPECTIVE DEPARTMENTS.

ART. 1.—Of the adjutant-general.

ART. 2.—Of the commissary-general.

### ARTICLE FIRST.

#### *Of the Adjutant-General.*

- SEC. 1. Adjutant-general to keep a roster of all officers above rank of captain.
2. He shall also enter in a book a local description of the several regiments, &c.
3. Commandants of divisions, &c. to furnish him with roster of officers.
4. Books required by him, to be furnished at expense of state.
5. Brigade-inspectors to transmit copy of inspection return annually to him.
6. Division-inspector to transmit return annually to him, and to commandant of division.
7. Seal of office. Certified copies of papers, evidence.
8. To cause this Chapter to be printed and distributed.

To keep roster.

§ 1. The adjutant-general shall keep a roster of all the officers of the militia of this state above the rank of captain, containing the date of their commissions, their rank, the corps to which they belong, the division, brigade, and regiment of such corps, and the places of their residence, as accurately as can be ascertained, which roster shall be revised and corrected every year.

§ 2. He shall also enter in a book to be kept for that purpose, a local description of the several regiments, brigades and divisions of infantry, artillery and riflemen.

ART. 2  
Local description.

§ 3. It shall be the duty of the commandants of divisions and brigades, to furnish the adjutant-general with a roster of their officers, containing the facts requisite to enable him to comply with the provisions of this Article, and also a description of the regiments and brigades.

Duty of commandants of divisions and brigades.

§ 4. The books required by the adjutant-general to comply with this Article, shall be furnished him at the expense of this state, and shall go to his successors in office.

Books.

§ 5. It shall be the duty of the brigade-inspectors to transmit a copy of the inspection return, annually, to the adjutant-general, and a duplicate of the same to the division inspector, within thirty days after the inspection shall be made.

Duty of brigade-inspectors.

§ 6. It shall be the duty of the division inspector to make and transmit a division return to the adjutant-general, for the commander in chief, and also to the officer commanding the division, annually.

Division inspectors.

§ 7. The seal now used in the office of the adjutant-general shall continue to be the seal of his office, and shall, from time to time, be delivered to his successor in office; and all copies of records or papers in his office, duly certified and authenticated under the said seal, shall be evidence in all cases, in like manner as if the originals were produced.

Seal of office

§ 8. It shall be the duty of the adjutant-general to cause this Chapter to be printed in a pamphlet form, and to distribute one copy to each commissioned officer; and it shall be the duty of such officer to deliver over the same to his successor in office, and the comptroller is hereby directed to draw his warrant on the treasurer for the expense of printing such pamphlets.

Pamphlet copies of this Chapter.

## ARTICLE SECOND.

### *Of the Commissary-General.*

- Sec. 9. Commissary-general to keep arsenals and magazines in repair, &c.
10. To sell out of arsenals, equipments for militia, at first cost.
  11. He shall dispose, to the best advantage, of all damaged powder, &c.
  12. He shall render account of sales made by him, and to pay amount thereof.
  13. To furnish colours, music, &c. upon certificate of commandant of brigade, with approbation of commander in chief.
  14. He shall issue powder and ball to artillery companies, for practice: commandants of companies to report.
  15. He shall report annually to commander in chief, who shall transmit report to legislature.
  16. To keep account of the expenses of his department: comptroller to audit it.

§ 9. The commissary-general shall keep in good repair, the arsenals and magazines of the state, and attend to the due preservation

To keep arsenals, &c. in repair.

**TITLE 8.** and safe keeping, cleaning and repairing of the ordnance, arms, accoutrements, ammunition, munitions of war, and implements of every description, the property of this state; and he shall at all times have he control and disposition of the same, for that purpose.

To sell articles from arsenals.

§ 10. He shall sell out of the public arsenals, to any citizen of this state, belonging to the militia, who shall procure a certificate from the commandant of the company to which such person belongs, of his actual residence within the limits of, and of his enrolment in, such company, a good musket and bayonet, with the necessary equipments; or a rifle, pistols, sword, or knapsack, at the price which the same may have cost the state.

Damaged powder and arms.

§ 11. He shall dispose, to the best advantage, of all damaged powder, and of all arms, ammunition, accoutrements, tools, implements, and warlike stores of every kind whatsoever, that shall be deemed unsuitable for the use of the state.

Account of sales.

§ 12. He shall, from time to time, render a just and true account of all sales made by him, with all convenient speed, to the governor, and shall pay the proceeds of such sales into the treasury.

Colours, &c. to be furnished.

§ 13. Whenever the commanding officer of a brigade shall certify that a stand of colours, or any drums, fifes or bugles, are necessary for any battalion in his brigade, the commissary-general, with the approbation of the commander in chief, shall furnish such battalion with a stand of colours, and a sufficiency of drums, fifes and bugles, at the expense of the state; but no such colours, drums, fifes or bugles, shall be furnished to any brigade at an expense greater than the sum that shall have been theretofore actually paid into the treasury, for fines, in such brigade.

Powder and ball to artillery.

§ 14. The commissary-general shall issue the usual allowance of powder and balls to artillery companies, for practice; and the several commandants of artillery companies shall annually report to the commissary-general, the situation and state of the pieces of ordnance, arms, implements, and accoutrements, the property of the state, entrusted to their charge respectively.

Annual report.

§ 15. The commissary-general shall report annually, to the commander in chief, whose duty it shall be to transmit the same to the legislature, a true and particular statement, shewing the actual situation and disposition of all the ordnance, arms, ammunition, and other munitions of war, property, and things, which in any wise appertain to, or respect, the department confided to his keeping.

Account of expenses.

§ 16. He shall keep a just and true account of all the expenses necessarily incurred in and about his department, and once, at least, in every six months, deliver the same to the comptroller, who shall

thereupon examine and audit the same ; and he shall draw his warrant on the treasurer, for such sum as he shall audit and certify to be due. TITLE 9.

**TITLE IX.**

MISCELLANEOUS PROVISIONS OF A GENERAL NATURE.

- Sec. 1. If non-commissioned officers of infantry equip themselves in a certain way, and do duty for seven years, to be exempt from military duty.
2. When non-commissioned officers appear so equipped, commandant of company to give certificate thereof.
3. At the last parade in each year, he shall endorse on certificate that such non-commissioned officer has so paraded.
4. Non-commissioned officers and musicians equipped and doing duty, entitled to a deduction from highway labor.
5. Non-commissioned officers, &c. of uniform companies, exempt from jury duty.
6. Any officer prosecuted for acts done by him as such, may give special matter in evidence under general issue ; if he succeed, to recover treble costs.
7. Provisions of this and preceding Titles, to extend to militia in different parts of the state.

§ 1. Whenever the non-commissioned officers of any company of infantry, shall, in addition to the equipments required by law, uniform and equip themselves in the manner following, that is to say : With an infantry cap, or with the plate and feather heretofore in use in the city of New-York ; a tight-bodied blue coat, with yellow or white metal buttons ; a white vest and pantaloons, and black gaiters, or half boots ; and shall parade, so uniformed and equipped, for the space of seven years then next following, sickness, or unavoidable accidents, or absence excepted, at all the parades directed by law ; and shall also perform all such military duties, as may be lawfully required of them ; such non-commissioned officers shall, from thenceforth, be excused from military duty, except in cases of insurrection or invasion, or except when called into actual service.<sup>6</sup>

§ 2. Whenever the non-commissioned officers of any such company, shall appear upon parade, so uniformed and equipped, the commandant of the company shall deliver to every non-commissioned officer belonging to such company, and so appearing at such parade, a certificate in writing, stating that the person therein named, is uniformed and equipped in the manner mentioned in the preceding section, and has so appeared upon parade. Such certificate shall also state, that if the person therein named shall continue to appear at all the parades required by the preceding section, for the space of seven years then next following, sickness and unavoidable accidents, or absence excepted ; and if he shall perform all such military duties as may be lawfully required of him, that then he shall from thenceforth be excused from military duty, as above mentioned.

§ 3. The commandant of the company shall, at the last parade in every year, or as soon thereafter as may be convenient, endorse upon

(6) Laws of 1824, p. 331, § 2.

**TITLE 10.** such certificate, that the person therein named has paraded, in conformity to the first section of this Title, (if such be the fact, and not otherwise;) and such certificate shall, at the expiration of the said seven years, be countersigned by the commanding officer of the regiment, and be conclusive evidence of the services therein mentioned.

Deduction from highway tax.

§ 4. Every non-commissioned officer and musician, who shall produce to the overseer of highways, or person authorised to receive commutations for highway taxes, a certificate from the commandant of his company, of his being equipped, and having done military duty, as required by law, for the preceding year, shall be entitled to a deduction from his labor on the highways, or from his commutation for such labor, of two days.

Exemption from juries.

§ 5. Every non-commissioned officer, musician or private, of any uniform company, or troop, who shall produce a certificate, dated within three months of the time of its production, signed by his commandant, that he belongs to such company, or troop, and is equipped and uniformed, according to law, shall be exempted from serving on any jury within this state; and such certificate shall be sufficient evidence of his right to such exemption.

Suits against officers.

§ 6. Whenever any officer of the militia, or any person acting under his command, shall be prosecuted for any act done by him as such he may plead the general issue, and give the special matter in evidence; and in case the plaintiff shall be non-prossed, or non-suited, or have a verdict or judgment against him, the defendant shall recover treble costs.

Application of this Chapter.

§ 7. The general provisions of this Title, and of the preceding Titles of this Chapter, shall be construed to extend to the militia, and the different corps thereof, in all parts of the state, except where special provisions, inconsistent therewith, in relation to any portion of such militia, or its different corps, are, or shall be made.

## TITLE X.

### SPECIAL PROVISIONS.

- ART. 1.—Of the infantry of the city and county of New-York.  
 ART. 2.—Of the first and sixth brigades of New-York state artillery.  
 ART. 3.—Of the first brigade of light artillery.  
 ART. 4.—Other special provisions.

### ARTICLE FIRST.

#### *Of the Infantry of the City and County of New-York.*

- SEC. 1. Infantry in New-York to parade three times a year.  
 2. The officers and non-commissioned officers to meet not less than 8 times a year.  
 3. The 1st, 2d and 3d sections of Title IX. to extend to privates as well as non-commissioned officers in infantry companies in New-York.  
 4. Certificate to conform to provisions of preceding section.

- Sec. 5. If person holding certificate remove out of bounds of company, &c. he may continue to parade therein. ART. 1.
6. How notices, &c. served in New-York.
  7. Commandants of brigades to appoint brigade courts-martial annually; of whom to consist.
  8. They shall have trial of all delinquencies in brigade, except in cases of officers above rank of captain.
  9. Officer ordering court may supply vacancies.
  10. Commandant of brigade to deliver returns of delinquencies to president of court, and to judge-advocate.
  11. Court to assemble annually, as commandant of brigade shall direct; judge-advocate to administer oath to members.
  12. President of court to appoint a marshal.
  13. Marshal to summon delinquents, and to make return.
  14. Judge-advocate may issue summons, &c.
  15. Persons notified and not appearing, to be proceeded against as if present, and had pleaded not guilty.
  16. Court may open a default taken against a party delinquent.
  17. Sentence against a commissioned officer not to be executed until approved of by officer ordering court.
  18. Appeal allowed from sentence for delinquency, to commandant of brigade.
  19. Officer absenting himself from parade, may be fined not exceeding \$25.
  20. Officers absenting themselves from improvement meetings, to be fined not less than two, nor more than five dollars.
  21. Fines imposed by court, to be reported by president to commandant of brigade.
  22. President to make a list of persons fined, &c. and to issue his warrant to collect the same.
  23. The officer to whom directed, to levy fine of goods, &c. of delinquent, or for want of them to take his body.
  24. He shall make return to president of court.
  25. In case a delinquent cannot be found, another warrant may be issued.
  26. In executing warrant, person to proceed in same manner as under execution issued from justice's court.
  27. Keepers of jails to receive persons under such warrants.
  28. Presidents of brigade courts-martial to account annually to commandant of brigade, and to pay over money.
  29. Monies how appropriated.

§ 1. The infantry of the city and county of New-York shall parade <sup>To parade three times a year.</sup> three times in each year, once by companies, and twice by regiments or separate battalions, one of which parades shall be ordered for inspection and review by the commandant of the brigade, and the remaining parades by the commandants of the respective regiments or separate battalions, at such times as they may think proper.<sup>9</sup>

§ 2. The officers and non-commissioned officers shall meet for military improvement, not less than eight times in each year, at such <sup>Officers' meetings:</sup> hours of the day as may be directed for that purpose; three of the meetings to be ordered by the commandant of brigade, and the residue by the commandants of regiments or separate battalions. The names of all persons who shall absent themselves from any such meeting, without such excuse as the officer ordering the same shall deem sufficient, shall be reported by the brigade inspector or the adjutant, as the case may require, to the president of the brigade court-martial, within thirty days after such meeting.

§ 3. The first, second and third sections of the ninth Title of this <sup>Certain sections of preceding Title;</sup> Chapter, shall extend to the privates as well as the non-commissioned

(9) Laws of 1824, p. 331, § 3; 1825, p. 413, § 5 & 6.

**TITLE 10.**  
 to apply to  
 New-York.

officers of every company of infantry in the city of New-York ; but such non-commissioned officers and privates, to entitle themselves to the privileges specified in those sections, shall parade uniformed and equipped as therein mentioned, at all parades directed by law, and also at five additional parades in each year, to be directed by the commandant of the regiment to which such company may belong, at such times and in such manner as he may deem best adapted to their improvement in military tactics.

Certificate.

§ 4. The certificate to be granted to such non-commissioned officers and privates, shall conform to the provisions contained in the preceding section.

Removal of  
 persons hold-  
 ing certifi-  
 cate.

§ 5. If any non-commissioned officer or private holding such a certificate, shall remove out of the bounds of his company, battalion, or regiment, but not out of the city of New-York, he may continue to parade with the company in which he was first enrolled ; unless excused by the commanding officer of such company, or unless he shall be transferred to another company or regiment, by the direction, or with the consent, of the commanding officer of the regiment to which such company belonged.

Notices, &c.  
 how served.

§ 6. All notices, warrants or summonses to attend any parade, improvement meeting, or court-martial in the city and county of New-York, may be served, by leaving a written or printed notice, containing the substance of such notice, warrant, or summons, at the store, counting-house, or usual place of business of the person to be notified, warned, or summoned, with some person of suitable age and discretion ; and every such person shall be held to duty in the beat in which he may have been so notified for any parade, unless he shall have been duly notified in the beat in which he actually resided.

Brigade  
 court-mar-  
 tial.

§ 7. The commandant of each brigade shall, on or before the first day of June in every year, appoint a brigade court-martial, to serve also as a court of inquiry, to consist of three commissioned officers ; except when a captain or subaltern is to be tried, in which case such commandant shall appoint two additional commissioned officers to be members of the court, and he shall also detail five supernumeraries to act in case the number of the ordinary members shall be reduced, by challenge or otherwise, below five.

It.

§ 8. Such court-martial shall have the trial of all offences and delinquencies within the limits of the brigade, which may be brought to trial within the year ending on the thirty-first day of May then next, except for offences and delinquencies of officers above the rank of captain.

Vacancy.

§ 9. The officer ordering such court shall have power to supply any vacancy which may happen therein.



§ 10. The commandant of brigade appointing any court-martial, shall forthwith deliver over all returns of delinquencies that shall come to his or his adjutant's hands, to the president of such court-martial, or to the brigade-judge-advocate.

ART. 1.

Duty of commandant of brigade.

§ 11. Every such court-martial shall assemble once at least in every year, at such place as the commandant of the brigade shall from time to time direct; and on its first assembling, the brigade-judge-advocate, and in case of there being no brigade-judge-advocate, qualified to act as such, then such judge-advocate as the commandant of the brigade shall appoint for the time being, shall administer to each member of the court then appearing, and afterwards to such other members of the court as may thereafter appear, the oath prescribed in the ninth section of the sixth Title of this Chapter.

When court to assemble.

§ 12. The president of every such court-martial shall appoint a marshal for said court, which appointment may be made either before or after the president shall have been sworn.

Marshal.

§ 13. He shall direct such marshal to summon all delinquents and parties accused, to appear before the court at the time and place by him in orders appointed; and such marshal shall make the like return, and with the like effect, as commissioned and non-commissioned officers are authorised and required to make in cases of warning to a company or regimental parade, and shall be subject to the like penalties for neglect of duty.

His duty.

§ 14. The brigade-judge-advocate may issue summonses, subpoenas, and all other needful process, under his official signature; and the same shall be as effectual as if issued by the president of the court.

Summons, subpoenas, &c.

§ 15. Every person who shall, after having been duly notified or summoned, refuse or neglect to appear before the court, may be proceeded against as if he was personally present, and had pleaded not guilty.

Persons not appearing.

§ 16. Every such court-martial, on the application of any delinquent, fined by default for not appearing, who shall make satisfactory excuse to the court for his default, may re-consider his case; and on sufficient cause being shown, may remit the fine, penalty or forfeiture, or direct the same to be repaid if collected.

Default when opened.

§ 17. No sentence of any such court-martial upon any commissioned officer shall be carried into effect, until such sentence shall be approved by the officer ordering the court.

Approval of sentence.

§ 18. From the sentence of every such court-martial, imposing a fine for any delinquency, an appeal, if made within twenty days, shall be allowed to the commandant of the brigade.

Appeal.

TITLE 10.  
Penalty for  
absence.

§ 19. Every officer who shall absent himself without sufficient excuse, from any parade prescribed by law, may be punished by fine, not exceeding twenty-five dollars for each parade.

Ib.

§ 20. Every commissioned and non-commissioned officer who shall absent himself from any of the improvement meetings, mentioned in the second section of this Article, without such excuse as the officer ordering the meeting shall deem sufficient, may be punished by fine of not less than two nor more than five dollars for every such offence.

Fines to be  
reported.

§ 21. All fines imposed by any such court-martial, shall be reported by the president of the court within thirty days after they shall be imposed, to the commandant of the brigade by whom the court shall have been ordered.

List of per-  
sons fined,  
and warrant.

§ 22. For the purpose of collecting such fines, the president of the court shall, within thirty days after such fines shall have been imposed, make a list of all persons fined by such court-martial, and who shall not have paid their fines, designating therein the number of the street or ward in which each delinquent resides, and the amount of the fine or fines imposed upon him; and he shall also draw his warrant under his hand and seal, directed to any constable or marshal of the city and county, or other special deputy that may be appointed for that purpose by such court-martial.

Contents of  
warrant.

§ 23. The warrant shall command the person to whom it may be directed, to levy the fine or fines of each delinquent, together with the fees for collecting the same, of the goods and chattels of such delinquent; and if any such delinquent shall be under age, and live with his father or mother, master or mistress, then to levy such fine or fines, with such fees, of the goods and chattels of such father or mother, master or mistress, as the case may be; and for want of goods and chattels whereon to levy, to take the body of such delinquent, and him to deliver to the keeper of the jail in said city and county.

Return of  
warrant.

§ 24. The person to whom such warrant shall be directed, shall return it to the president of the court-martial in forty days, with a return of his proceedings thereon; and shall, on or before the expiration of the time limited for the return of the warrant, account to the president or his successor, under oath, and pay to him or his successor, all monies he may have collected or received in virtue thereof.

New war-  
rant.

§ 25. In case he shall return any of the delinquents not found, it shall be lawful for such president, or his successor, in like manner, to issue another and a further warrant against such delinquents so, from time to time, returned not found, until the whole of the fines shall have been collected, or the bodies of the delinquents taken.

§ 26. The person to whom any such warrant shall be delivered, in executing the same, shall proceed in the same manner, be entitled to the same fees, and be subject to the same penalties, as in cases of execution issued out of the marine court, in the said city.

ART. 2

Duty and fees of officers.

§ 27. The keeper of the jail in said city and county, shall receive the body of every person committed under any such warrant, and shall keep him closely confined in such jail, without bail or mainprize, until the fine or fines, for which he shall have been committed, together with the fees for executing the warrant, and the jailer's fees, shall be paid; but the jailer shall set at liberty every such person after he shall have been so confined ten days.

Duty of jailer

§ 28. The president of every brigade court-martial shall annually, on the first Monday in March, and oftener if required, account upon oath, and pay over to the commandant of the brigade who shall have ordered the said court, and to the commandants of regiments or separate battalions, within his brigade, who are hereby constituted a board of officers for that purpose, or to a treasurer by them to be appointed, all the monies which he may receive as aforesaid.

Presidents of courts-martial to account.

§ 29. Such monies shall be appropriated by the board,

Monies how applied.

1. To the payment for room hire and stationary, and for the compensation allowed to the brigade inspector, brigade judge-advocate, and members of the courts-martial and courts of inquiry of the brigade, and the marshals appointed by such courts respectively.

2. To the purchase and repair of colours and instruments of music; the payment, instruction, and equipment of musicians; the printing of orders and notices, and such other military purposes as shall be directed and allowed by the board of officers.

ARTICLE SECOND.

*Of the First and Sixth Brigades of New-York State Artillery.*

Sec. 30. First and sixth brigades of New-York state artillery, to use same weapons, &c. in use at passing of this act.

- 31. Such weapons, &c. and every horse enrolled for service, exempt from execution.
- 32. Officers of said brigades exempt from military duty after six years' service.
- 33. Non-commissioned officers, &c. shall be exempt after seven years' service.
- 34. Persons serving in such brigades, entitled to a reduction of 500 dollars, from the assessment upon their property.
- 35. Officers, &c. in light artillery of said brigades, entitled to a like reduction of one thousand dollars.
- 36. Officers, &c. of such brigades, during service therein, exempt from jury duty.
- 37. Regiments of said brigades shall be ordered out for exercise, not less than eight, nor more than twelve times annually.
- 38. Officers of said brigades to be exercised four times, and non-commissioned officers twice, annually.
- 39. Commandant of each regiment to receive from state military stores, powder, &c. for exercise of his regiment.
- 40. To be a review for the inspection of brigades on 2d Tuesday of October annually.
- 41. Light artillery annexed to regiments in these brigades, may be ordered out not less than eight, nor more than twelve times annually.
- 42. Officers, &c. how warned to appear at parade.
- 43. In cases of invasion, &c. written notices not necessary.

**TITLE 10** Sec. 44. Commandants of companies when required to make a return of persons absent from parade.

45. Brigade inspector to make return of officers, &c. present at inspection.  
 46. Commandants of regiments to make return of officers, &c. absent from inspection.  
 47. Brigade courts-martial have power to prescribe or alter forms of returns of delinquencies.  
 48. When they prescribe or alter forms, notice to be published in orders.  
 49. Commandant of brigade to appoint brigade court-martial annually; constitution of court.  
 50. It shall have the trial of all delinquencies in brigade, except those of officers above the rank of captain.  
 51. Provisions of first Article of this Title, from section nine to eighteen, inclusive, to apply to courts-martial of said brigades of artillery.  
 52. Punishments, penalties and fines for not conforming to the provisions of this Article.  
 53. Fines imposed by brigade court-martial, how collected.  
 54. How disposed of when collected.  
 55. President and judge-advocate to receive two dollars per day; members not to receive any thing.  
 56. When officer is convicted upon charges preferred against him, to pay costs; if acquitted, costs to abide direction of court.  
 57. Last section not to extend to arrests made by commandants of brigades, &c.  
 58. Commandants of regiments, &c. to account annually to commandant of brigade for monies received by them.  
 59. How such monies expended and applied.  
 60. Brigade inspectors to keep a roster of officers in their brigade below the rank of major.  
 61. Officers and privates of any company of artillery, not in New-York, their privileges and exemptions.

**Weapons.**

§ 30. The several companies and regiments composing the first and sixth brigades of New-York state artillery, may use the same weapons, accoutrements, and other equipments, with which they are provided at the passing of this act, until otherwise directed by the commander in chief.

**Exemptions from execution.**

§ 31. Such weapons, accoutrements, and other equipments, together with every horse, actually enrolled for service, and belonging to any member or members of these brigades, shall be exempt from seizure by execution.

**Officers when exempt.**

§ 32. Every officer in such brigades, who shall hereafter resign his commission, if the resignation thereof be accepted by the proper authorities, shall, provided he has served faithfully in any capacity in his brigade, for the period of six years, be thereafter exempt from all military duty in this state, except in cases of insurrection or invasion; and shall in no case be compelled to serve in a grade inferior to that which he shall have previously held.

**Non-commissioned officers and privates when exempt.**

§ 33. Every non-commissioned officer, musician or private, now belonging to, or who shall hereafter belong to any regiment of such brigades, and shall serve faithfully therein, for the period of seven years, shall thereafter be exempt from military duty in this state, except in cases of insurrection or invasion.

**Reduction in tax.**

§ 34. Every officer, non-commissioned officer, musician and private actually and faithfully serving in such brigades, shall be entitled to a reduction of five hundred dollars, from the amount assessed upon

him by the assessors, as the value of his property, and the residue shall be the sum for which he shall be assessed. ART. 2.

§ 35. Every officer, non-commissioned officer, musician and private, in any troop or company of light artillery in either of the brigades, shall be entitled to a similar reduction, to the amount of one thousand dollars. Reduction in taxes.

§ 36. Every officer, non-commissioned officer, musician and private, actually and faithfully serving in such brigades, shall, during such service, be exempt from serving upon any grand or petit jury within this state; but the court before whom such exemption shall be claimed, shall not receive any certificate as conclusive, but shall examine into the fact of such service. Exemption from jurics.

§ 37. Each regiment in these brigades shall be ordered out for exercise by the commandant thereof, at least eight, and not exceeding twelve times in each year; of which parades so many shall be by brigades as the commandants of brigades shall respectively direct. Regiments how often to be ordered out.

§ 38. The commandants of these brigades shall exercise the officers of their respective brigades, for their military improvement, at least four times in each year; and the respective commandants of regiments, shall exercise their commissioned and non-commissioned officers at least twice in every year. Officers to be exercised.

§ 39. The commandant of each regiment shall be entitled to receive, from the military stores of this state, as much powder, ball, and other munitions, as the commander in chief may think proper, for the purpose of better enabling such officers to exercise and improve their respective regiments. Military stores.

§ 40. There shall be a review for the inspection of the brigades, on the second Tuesday of October, in each year, or as soon thereafter as possible; and the commandant of each brigade, and the staff officers thereof, shall attend such review. Inspection review.

§ 41. The troops of light artillery annexed to regiments in these brigades, may be ordered out for exercise by the commandants of the regiments to which they are respectively annexed, at least eight and not more than twelve times in each year, including in the number every regimental parade which they may be ordered to attend; and in addition to their other equipments, may be armed with rifles, carbines, or lances, as such troops shall elect. Light artillery may be ordered out.

§ 42. Officers, non-commissioned officers, musicians and privates, shall be warned to appear at all parades and places of rendezvous, in the manner prescribed in the fifth Title of this Chapter, except that commissioned officers shall be warned by the serjeant-majors of their respective regiments, who shall make their returns to the adjutant or Officers how warned.

**TITLE II.** colonel, in the same manner, and with the like effect, as is provided in said Title in respect to company returns.

*Verbal orders, when sufficient.* § 43. In cases of invasion, tumult, and insurrection, it shall not be necessary for commandants of companies to issue written orders or notices for calling out their men; but verbal orders and notices shall be sufficient.

*Return of delinquents.* § 44. Every commandant of a company shall, when thereunto required by the commandant of the regiment to which he belongs, make a just and true return of every person absent from any parade or rendezvous.

*Return of inspection.* § 45. The brigade inspector, or person acting as such, shall make a just and true return of the officers, non-commissioned officers, musicians and privates, present at every parade for inspection and review attended by him, together with the state of their arms and equipments.

*Return of delinquents.* § 46. It shall be the duty of the commandant of each regiment, to make a just and true return of the name of every officer, non-commissioned officer, musician and private, absent from such review for inspection, to the president or judge-advocate of the brigade court-martial.

*Forms of returns.* § 47. The brigade court-martial shall have power to prescribe, and from time to time to alter the forms of returns of delinquencies to be made by commandants of regiments and companies, and also to prescribe or alter the forms of returns made by non-commissioned officers, of persons warned by them to appear on parade.

*Alterations therein.* § 48. Whenever such court-martial shall prescribe or alter the form of any return, notice thereof shall be published in orders; after which, such returns shall be made in the form directed by the court.

*Brigade court-martial.* § 49. The commandant of each brigade shall, on or before the first day of June in each year, appoint a brigade court-martial, to serve also as a brigade court of inquiry, to consist of five commissioned officers, at least one of whom shall be a field officer, and president thereof, and any three of whom, including such president, may make a quorum, except when a captain or subaltern is tried, in which case five members shall be present; and the commandant shall also detail five supernumeraries, to act in case the number of the ordinary members shall be reduced by challenge or otherwise below five.

*Power thereof.* § 50. Each court-martial shall have the trial of all offences and delinquencies in its brigade, which may be brought to trial within the year ending on the thirty-first day of May, then next; except such offences and delinquencies of officers above the rank of captain, as are not provided for in the fifty-second section of this Article.

§ 51. The provisions of the first Article of this Title, from section nine to section eighteen, both inclusive, shall apply to the courts-martial of said brigades of artillery.

ART. 2  
Former Article of this Title extended.

§ 52. The following punishments, penalties and fines, shall be incurred and imposed, for not conforming to the provisions of this Article, unless a satisfactory excuse be produced to the court-martial.

Penalties and fines.

1. Every commissioned officer who shall neglect to appear and do duty, in the complete uniform and equipments of his corps, at any parade for exercise, when thereunto duly notified, shall forfeit and pay a penalty not exceeding ten dollars for every such neglect.

2. Every non-commissioned officer, musician and private, who shall so neglect to appear, shall forfeit and pay a penalty not exceeding five dollars for every such neglect.

3. Every commissioned officer absenting himself from any meeting for improvement, shall forfeit and pay a penalty of three dollars for every such neglect.

4. Every non-commissioned officer, who shall neglect to execute any warrant or order to him directed, or to return such warrant; or shall make a false return thereof; or shall neglect or refuse to appear at the place of rendezvous mentioned in such warrant; or neglect or refuse to summon any delinquent to appear before any court-martial, when thereunto required by a summons from the president; or shall neglect to return any such summons, in his own proper person, before such court-martial; shall forfeit and pay for every such offence, a fine not less than five, nor more than twenty-five dollars.

5. Every commissioned officer, for disobedience of orders, neglect of duty, unofficer-like conduct and behaviour, or disrespect to a superior officer; or for neglect to furnish himself with a uniform and side-arms, within six months after he receives his commission; shall be arrested and brought to trial before a court-martial, who may, on conviction, sentence him to be cashiered, and may impose a fine not exceeding ninety-five dollars, or may sentence him to any part of said punishment or penalties, or to be reprimanded or suspended, as the said court-martial shall think proper.

6. Every non-commissioned officer, for neglecting or refusing to act as such when duly appointed, shall be sentenced to pay a fine, not exceeding twenty, nor less than five dollars.

7. Every non-commissioned officer, musician or private, who shall, on any day of parade, neglect or refuse to obey the orders of his superior officers, or to perform such military duty or exercise as may be required, or shall depart from his colours, post or guard, or leave the ranks without permission, shall be sentenced to pay a fine not exceeding twenty-five, nor less than two dollars.

§ 53. All fines imposed by the brigade court-martial, shall be collected in the manner prescribed in the first Article of this Title; ex-

Fines how collected.

**TITLE 10.** **cept** that the president of the court shall, within sixty days after any fines have been imposed, issue his warrant for their collection, directed to the keeper of the jail in the city and county, or in the county in which the delinquent shall reside; and except also, that the jailer shall set at liberty, any person confined by virtue of such warrant, after he shall have been in close confinement for fifteen days.

**How applied.** § 54. All such fines, when collected, after deducting the pay of the president and judge-advocate, and of the marshal, constable, or special deputy, and all necessary expense for room hire, stationary and printing, shall be divided amongst, and paid to, the several commandants of regiments and separate battalions, in the brigade in which such fines shall have been collected, in proportion to the whole amount of fines collected from said regiments and separate battalions, respectively; but in such a manner, that the expenses incurred in and about the trial of delinquencies, and other offences, returned from each regiment, or arising therein, shall be defrayed out of the fines which may have been, or may be afterwards collected therefrom, as far as the same may go.

**Compensation of members of court.** § 55. The president of the court, and the judge-advocate, shall each be entitled to two dollars per day, while on actual duty; and none of the other members of the court, shall be paid for their services; but it shall, nevertheless, be their duty to attend the said court.

**Costs of prosecution.** § 56. When any officer, arrested upon charges preferred against him, shall be convicted, he shall pay the costs of the prosecution; and if he be acquitted, the court shall have power, in its discretion, to direct the costs to be paid by the prosecutor, or person preferring such charges; and the president shall issue his warrant for the collection thereof, in the same manner as for the collection of a fine.

**Last section qualified.** § 57. The last preceding section shall not extend to any arrest made by the commandant of the brigade, or the commandant of any regiment or separate battalion therein, on charges preferred by the officer arresting.

**Commandants to account for monies.** § 58. The commandants of regiments and separate battalions, shall, on the first Tuesday in May, in each year, render an account, on oath, of all the monies by them respectively received and expended, to the commandant of their brigade.

**Those monies how applied.** § 59. They shall apply and expend such monies toward the payment of regimental expenses, as has been heretofore customary; and if any balance shall remain in their hands, upon the rendering of such account, unexpended or unappropriated, they shall pay the same to the commandant of their brigade, to be by him applied towards paying the expenses of the brigade.



§ 60. Each brigade-inspector shall keep a roster of all the officers in his brigade, below the rank of major.

ART. 3.  
Roster.

§ 61. All officers, non-commissioned officers, privates, and musicians, of any troop, or company of artillery, not in the city of New-York, now attached to the command of the commandant of the sixth brigade, or to any regiment thereof, shall continue to be attached to the same; and while so attached, they shall be entitled to all the privileges and exemptions, that are enjoyed by the officers, non-commissioned officers, and privates, of such brigade of artillery, and be subject to the same duties, and in like manner answerable for all delinquencies and offences.

Privileges and exemptions of artillery not in New-York.

ARTICLE THIRD.

*Of the First Brigade of Light Artillery.*

Sec. 62. What to compose "first brigade of light artillery;" how to be equipped.  
63. Rights, privileges, exemptions and duties, of said brigade.

§ 62. The two regiments of light artillery, in the counties of New-York, Kings, Queens, Richmond, Suffolk, and Westchester, now organized into a brigade, shall continue to be a brigade, to be denominated the "First Brigade of Light Artillery;" and the several troops and companies composing the same, shall be armed and equipped as cavalry, and liable to duty as light artillery; but nothing in this section contained, shall prevent the commander in chief from disbanding said brigade, if, in his opinion, it shall become proper or expedient.

How composed and equipped.

§ 63. The officers, non-commissioned officers, musicians, and privates, belonging to such brigade, shall have and enjoy, all the rights, privileges, and exemptions, and be subject to all the duties, as to the number of parades, both of officers, non-commissioned officers, and privates, and liable to the same penalties, which are granted to, and imposed upon, the first and sixth brigades of New-York state artillery, and any troop, or company of light artillery, attached thereto.

Privileges and exemptions.

ARTICLE FOURTH.

*Other Special Provisions.*

Sec. 64. Certain sections to extend to certain regiments, battalions and companies in Albany, Rensselaer and Schenectady.

- 65. The officers of such regiments shall meet for military improvement not less than eight times a year.
- 66. Officers absent from such meeting, to be fined not less than two, nor more than five dollars; delinquents to be reported.
- 67. Certain section extended to Albany.
- 68. Persons under eighteen years of age in New-York, not allowed to enlist in cavalry or artillery.
- 69. No regimental or battalion parade required in Hamilton county; companies annually to be inspected by their captains.

§ 64. The first, second and third sections of the ninth Title, and the third and fourth sections of this Title, shall extend to the several re-

Albany, Rensselaer and Schenectady.

**TITLE 10.** *giments, battalions, and companies of artillery, light artillery, cavalry, light infantry, and riflemen, in the city and county of Albany, in the county of Rensselaer, and in the city and county of Schenectady, so long as such regiments, battalions, and companies, shall keep themselves uniformed, armed and equipped, according to law, and to the uniform and equipments of their respective corps.*

**1b.** § 65. The officers, non-commissioned officers and musicians of such regiments, battalions, and companies, shall meet for military improvement, not less than eight times in each year, at such hours in the day as may be directed for that purpose; three of the said meetings to be ordered by the commandants of brigades, and the residue, by the commanding officers of regiments, or separate battalions.

**1b.** § 66. Every such commissioned officer, who shall absent himself from any such meeting, without such excuse as the officer ordering the meeting shall deem sufficient, shall be subject to a fine of not less than two, nor more than five dollars, for every such offence. The names of such delinquents shall be returned to the proper court-martial by the brigade inspector, or the adjutant, as the case may require, within thirty days after such meeting.

**Albany.** § 67. The provisions and requirements of the sixth section of this Title, shall apply to the city of Albany.

**New-York.** § 68. Persons under eighteen years of age, in the city of New-York, shall in no case, be permitted to enlist in any company, or troop of cavalry, artillery, or light artillery, light infantry or riflemen.

**Hamilton county.** § 69. The militia in the county of Hamilton, shall not be required to parade at any battalion or regimental parade; but the captains of the several companies, shall annually inspect their several companies, and make inspection returns thereof, to the brigade inspector, on or before the first day of November, in each year, and shall also make return of delinquents, to the judge-advocate of the brigade, on or before the first day of October, in each year.

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## CHAP. XI.

### Of the Powers, Duties, and Privileges of Towns

**TITLE 1.**—Of towns, as bodies corporate.

**TITLE 2.**—Of town meetings, and the time, purposes and manner of holding them.

**TITLE 3.**—Of the election and qualifications of town officers, and the tenure of their offices.

**TITLE 4.**—Of the general duties of certain town officers, and of various matters connected therewith.

TITLE 5.—Of legal proceedings in favor of, and against towns.

ART. 1.

TITLE 6.—Miscellaneous provisions of a general nature.

TITLE 7.—Local and special provisions.

TITLE I.

OF TOWNS, AS BODIES CORPORATE.

ART. 1.—Of the powers and rights of towns, as bodies corporate.

ART. 2.—Of the effects of the division of a town, on its corporate rights and liabilities.

ARTICLE FIRST.

*Of the Powers and Rights of Towns, as Bodies Corporate.*

SEC. 1. Powers of towns as bodies corporate, defined.

2. Limitations of those powers.

3. In what name towns to act.

SECTION 1. Each town, as a body corporate, has capacity,

Powers of towns as bodies corporate.

1. To sue and be sued, in the manner prescribed in the laws of this state:

2. To purchase and hold lands within its own limits, and for the use of its inhabitants, subject to the power of the legislature over such limits:

3. To make such contracts, and to purchase and hold such personal property, as may be necessary to the exercise of its corporate or administrative powers: And,

4. To make such orders for the disposition, regulation or use of its corporate property, as may be deemed conducive to the interests of its inhabitants.

§ 2. No town shall possess or exercise any corporate powers, except such as are enumerated in this Chapter, or shall be specially given by law, or shall be necessary to the exercise of the powers so enumerated or given. Limitation.

§ 3. All acts or proceedings by or against a town, in its corporate capacity, shall be in the name of such town; but every conveyance of lands within the limits of such town, made in any manner, for the use or benefit of its inhabitants, shall have the same effect as if made to the town by name. In what name to act.

ARTICLE SECOND.

*Of the Effects of the Division of a Town, on its corporate Rights and Liabilities.*

SEC. 4. When a town owning lands is divided, supervisors and overseers of the poor, may make such agreement as they shall think equitable, for the disposition of such lands.

5. When a town is altered in its limits, supervisors and overseers may make like agreement.

6. If no agreement be made within six months, land to be sold, and proceeds apportioned between the towns.

7. Personal property of a town divided or altered in its limits, to be apportioned, and how.

**TITLE I.** **SEC. 8.** Meetings required under this Article, may be called by either of the supervisors ; three days' notice to be given.

9. Burying grounds excepted from preceding Articles ; to belong to town within which they may be situated.

10. Debts owing to a town divided or altered, to be apportioned in the same manner as personal property.

11. This Title not to apply to gospel and school lots.

Town lands how to be disposed of, on division of town.

§ 4. When a town seised of lands shall be divided into two or more towns, the supervisors and overseers of the poor of the several towns constituted by such division, shall meet as soon as may be, after the first town-meetings subsequently held in such towns, and when so met, shall have power to make such agreement, concerning the disposition to be made of such town lands and the apportionment of the proceeds, as they shall think equitable, and to take all measures and execute all conveyances which may be necessary to carry such agreement into effect.

If, when part of town is annexed to another.

§ 5. When any such town shall be altered in its limits, by the annexing of a part of its territory to another town, or towns, the supervisors and overseers of the poor of the town from which such territory shall be taken, and of the town or towns to which the same shall be annexed, shall, as soon as may be after such alteration, meet for the purpose, and possess the powers provided in the last preceding section.

If no agreement be made, as to be settled.

§ 6. If no agreement for the disposition of such lands, shall be made by the supervisors and overseers, within six months after such division or alteration, then the supervisor and overseers of the poor of each town in which any portion of said lands shall lie, shall proceed, as soon as may be, to sell and convey such part of said lands as shall be included within the limits of such town, as fixed by the division or alteration ; and the proceeds arising from such sale shall be apportioned between the several towns interested therein, by the supervisors and overseers of the poor of all the towns, according to the amount of taxable property in the town divided or altered, as the same existed immediately before such division or alteration, to be ascertained by the last assessment list of such town.

Personal property, how apportioned.

§ 7. When a town possessed of or entitled to money, rights and credits, or other personal estate, shall be so divided or altered, such personal estate, including monies belonging to the town in the hands of town officers, shall be apportioned between the towns interested therein, by the supervisors and overseers of such towns, (who shall meet for that purpose as soon as may be after the first town-meetings subsequently held in such towns,) according to the rule of apportionment above prescribed.

Meetings under this Article, how called.

§ 8. Whenever a meeting of the supervisors and overseers of two or more towns shall be required, in order to carry into effect the pro-

visions of this Article, such meeting may be called by either of said supervisors; but the supervisor calling the same, shall give at least three days' notice in writing to all the other officers, of the time and place at which such meeting is to be held. ART. 1.

§ 9. The preceding sections shall not, however, apply to any cemetery, or burial ground; but the same shall belong to the town in which it may be situated, after a division shall have been made. Cemeteries excepted.

§ 10. Debts owing by a town so divided or altered, shall be apportioned in the same manner as the personal property of such town; and each town shall thereafter be charged with its share of such debts, according to such apportionment. Debts to be apportioned.

§ 11. Nothing contained in this Title shall apply to any of the lots heretofore granted by the people of this state to any town, for the support of the gospel and of schools, commonly called the gospel and school lots. Gospel and school lots. See post ch. 15, Title 4.]

## TITLE II.

### OF TOWN-MEETINGS, AND THE TIME, PURPOSES AND MANNER OF HOLDING THEM.

ART. 1.—Of annual and special town-meetings.

ART. 2.—Of the mode of conducting town-meetings.

#### ARTICLE FIRST.

#### *Of Annual and Special Town-Meetings.*

SEC. 1. Annual town-meetings where held.

2. Annual town-meetings when held; time to be fixed by electors; not to be altered within three years after the time when it was so fixed.

3. Enumeration of officers to be chosen at town-meetings.

4. Assessors and commissioners of highways to be fence viewers.

5. Powers of electors at annual town-meetings.

6. Additional power in regard to the poor, in certain cases.

7. Special town-meetings when to be held, and for what purposes.

8. When notice is to be given of a town-meeting.

9. Orders and regulations of town-meetings to be in force until repealed or altered.

10. No civil process to be served, on the day of town-meeting, on any elector.

§ 1. The citizens of the several towns in this state, qualified by the constitution to vote for elective officers, shall annually assemble and hold town-meetings in their respective towns, at such place in each town, as the electors thereof at their annual town-meeting shall from time to time appoint. Annual town meetings, when held.

§ 2. Each town shall hold its next annual town-meeting on the day now provided by law for such town, and the electors thereof shall then, and immediately before proceeding to the choice of town officers, fix the time for holding the annual town-meetings in such town; and all annual town-meetings in the respective towns, shall thereaf- Time of holding annual town-meetings.

(1) 2 R. L. 125, § 1 & 5; Laws of 1925, p. 207, § 5.

**TITLE 2.** ter be held at such times as shall have been, from time to time, prescribed by the electors thereof, at their annual town-meeting. The time to be so fixed shall always be on some Tuesday between the first Tuesday in February and the first Tuesday in May, in each year; and when fixed, shall not be altered at any time within three years thereafter.

**Officers to be chosen.** § 3. There shall be chosen at the annual town-meeting in each town, one supervisor; one town clerk; not less than three, nor more than five assessors; one collector; two overseers of the poor; three commissioners of highways; three commissioners, and three inspectors of common schools; not more than five constables; one town sealer of weights and measures; as many overseers of highways as there are road districts in the town, except in the counties of Suffolk, Queens, Kings, and Richmond; and so many pound-masters, as the electors may determine.<sup>2</sup>

**Fence viewers.** § 4. The assessors and commissioners of highways elected in every town shall, by virtue of their offices, be fence viewers of their town.

**Powers of annual town-meetings.** § 5. The electors of each town shall have power at their annual town-meeting,

1. To determine what number of assessors, constables and pound-masters, shall be chosen in such town for the then ensuing year :<sup>3</sup>
2. To elect such town officers as may be required to be chosen :<sup>3</sup>
3. To direct such sum to be raised in such town, for the support of common schools for the then ensuing year, as they may deem necessary, but not exceeding a sum equal to the amount required by law to be raised therein for that purpose :<sup>4</sup>
4. To direct the institution or defence of suits at law or in equity, in all controversies between such town and corporations, individuals, or other towns :<sup>5</sup>
5. To direct such sum to be raised in such town for prosecuting or defending such suits, as they may deem necessary :<sup>5</sup>
6. To take measures and give directions for the exercise of their corporate powers :
7. To make such provisions and allow such rewards for the destruction of noxious weeds, as they may deem necessary, and to raise money therefor :<sup>6</sup>
8. To establish and maintain pounds at such places within such town as may be convenient :<sup>7</sup>
9. To establish the compensation of the fence viewers and collector of such town; but the compensation of such collector shall in no case be more than five, nor less than three per cent. :<sup>8</sup>

(2) *Ib.* 1 R. L. 376, § 2; Laws of 1819, p. 190, § 9. (3) 2 R. L. 125, § 1. (4) Laws of 1819, p. 190, § 7. (5) Laws of 1820, p. 175, § 1; 2 R. L. 132, § 15. (6) 2 R. L. 135, § 11. (7) 2 R. L. 131, § 12. (8) *Ib.*; Laws of 1823, p. 400.

10. To make, from time to time, such prudential rules and regulations, as they may think proper, for the better improving of all lands owned by such town in its corporate capacity, whether commons, or otherwise; for maintaining and amending partition or other fences around the same, or any part thereof, and circular fences for their lands, gardens, orchards and meadows; for protecting such lands from any trespass, and for directing the time and manner of using the same.<sup>9</sup>

ART. 1.

11. To make the like rules and regulations for ascertaining the sufficiency of all fences in such town; for determining the times and manner in which cattle, horses, or sheep, shall be permitted to go at large on highways; and for impounding animals:<sup>9</sup>

12. To impose such penalties on persons offending against any rule or regulation established by such town, excepting such as relate to the keeping and maintaining of fences, as they may think proper; not exceeding twelve dollars and fifty cents for each offence: And,

13. To apply such penalties, when recovered, in such manner as they may think most conducive to the interests of such town.<sup>9</sup>

§ 6. In addition to the powers above specified, the electors of each town, bound to support its own poor, shall have power, at their annual town-meeting, to direct such sum to be raised in such town for the support of the poor for the ensuing year, as they may deem necessary. And every town may raise any money that may be necessary, to defray any charges that may exist against the overseers of the poor of such town.<sup>10</sup>

Additional power.

§ 7. Special town-meetings shall be held to supply vacancies in the several cases hereinafter provided. They shall also be held whenever twelve or more persons eligible to the office of supervisor of the town shall, by application in writing, signed by them, and addressed to the town clerk, require a special town-meeting to be called, for the purpose of raising monies for the support of common schools, or of the poor, when a proposition to that effect shall not have been acted upon at the annual town-meeting; or for the purpose of deliberating in regard to the institution or defence of suits, or the raising of monies therefor: and no special town-meeting shall have power to act on any subjects, other than such as are specified in this section.<sup>11</sup>

Special town-meeting.

§ 8. No previous notice need be given of the annual town-meetings; but the town clerk shall, at least eight days before the holding of any special town-meeting, cause notices thereof, under his hand, to be posted at four or more of the most public places in the town: which notices shall specify the time, place and purposes of such meeting.<sup>11</sup>

Notice.

(9) 2 R. L. 131, § 12; Laws of 1823, p. 207, § 5 (10) 1 R. L. 287, § 23; Laws of 1821, p. 382. (11) 2 R. L. 126, § 1 and 16

**TITLE 2.**  
*Orders, &c.* § 9. Every order or direction, and all rules and regulations, made by any town-meeting, shall remain in force, until the same shall be altered or repealed at some subsequent town-meeting.<sup>12</sup>

*Civil process.* § 10. Whenever a town-meeting shall be held in any town, civil process shall be served in such town on any elector entitled vote therein, on any day during which such town-meeting shall be held.

#### ARTICLE SECOND.

##### *Of the Mode of conducting Town-Meetings.*

- SEC. 11. Justices of the peace to preside at town-meetings.  
 12. They have power to preserve order.  
 13. If justice be absent, presiding officer to be chosen.  
 14. Town clerk to be clerk of the meeting; his duties.  
 15. If town clerk be absent, person to be chosen to act as clerk.  
 16. Town-meetings to be kept open in day time only; may be held for two days.  
 17. All questions to be decided by majority; presiding officers to declare result.  
 18. Proceedings in case any person offering to vote, shall be challenged as unqualified.  
 19. Minutes of proceedings to be filed with town clerk.

*Justices to preside.*

§ 11. It shall be the duty of the justices of the peace of each town, to attend every town-meeting held therein; and such of them as shall be present, shall preside at such meeting, and shall see that the same is orderly and regularly conducted.<sup>13</sup>

*Power to preserve order.*

§ 12. The officers so presiding shall have the like authority to preserve order, to enforce obedience, and to commit for disorderly conduct, as is possessed by the board of inspectors at a general election.

*Presiding officer if justice absent.*

§ 13. If there be no justice of the peace present at such meeting, then such person as shall be chosen for that purpose by the electors present, shall preside, and shall possess the like powers as the justices.<sup>13</sup>

*Clerk of meeting.*

§ 14. The town clerk last before elected or appointed, shall be the clerk of the town-meeting, and shall keep faithful minutes of its proceedings; in which he shall enter, at length, every order or direction, and all rules and regulations, made by such meeting.<sup>13</sup>

*Ib.*

§ 15. If the town clerk be absent, then such person as shall be chosen for that purpose by the electors present, shall act as clerk of the meeting.

*Meeting how long kept open.*

§ 16. Town-meetings shall be kept open in the day-time only, between the rising and setting of the sun; and if necessary, may be held two days successively, but no longer.<sup>14</sup>

*Majority to decide, &c.*

§ 17. All questions, upon motions made, at town-meetings, shall be determined by the majority of the electors voting; and the officers presiding at such meeting, shall ascertain and declare the result of the votes upon each question.<sup>15</sup>

(12) 2 R. L. 131, § 12. (13) *Ib.* § 2. (14) *Ib.* § 4. (15) *Ib.* § 1 and 2.



§ 18. If any person offering to vote at any election, or upon any question, arising at such town-meeting, shall be challenged as unqualified, the presiding officers shall proceed thereupon in the manner prescribed in the fourth Title of the sixth Chapter of this act : and no person whose vote shall have been received upon such challenge, shall be again challenged upon any other question, arising at the same town-meeting.<sup>16</sup>

ART. 1.  
Challenges

§ 19. The minutes of the proceedings of every town-meeting, subscribed by the clerk of such meeting, and by the officers presiding, shall be filed in the office of the town clerk, within two days after such meeting.

Minutes of proceedings.

### TITLE III.

#### OF THE ELECTION AND QUALIFICATIONS OF TOWN OFFICERS, AND THE TENURE OF THEIR OFFICES.

ART. 1.—Of the election of town officers.

ART. 2.—Of the qualifications of town officers, and the tenure of their offices:

ART. 3.—Of vacancies in town offices and the mode of supplying them.

#### ARTICLE FIRST.

##### *Of the Election of Town Officers.*

- SEC. 1. Proclamation of opening and closing poll, when to be made.
2. Certain town officers to be chosen by ballot.
3. Other officers how to be chosen.
4. All persons voted for to be named in one ballot ; its contents, &c.
5. When election is by ballot, poll lists to be kept.
6. Ballots to be deposited in a box.
7. Canvass of votes, how to be conducted.
8. Before ballots are opened, they are to be counted and compared.
9. Statement of the result, to be made and read ; reading to be deemed notice of election in certain cases.
10. In what cases clerk to transmit notice of election.

§ 1. Before the electors shall proceed to elect any town officer, proclamation shall be made of the opening of the poll, and proclamation shall in like manner be made, of each adjournment, and of the opening and closing of the poll, until the election be ended.

Proclamations.

§ 2. The supervisor, town clerk, assessors, collector, overseers of the poor, commissioners of highways, commissioners and inspectors of common schools, and constables, shall be chosen by ballot.<sup>17</sup>

Mode of choice.

§ 3. All other town officers shall be chosen either

1. By ballot,
2. By ayes and noes, or
3. By the rising, or the dividing of the electors ;

As the meeting may determine.

TITLE 3.  
 Contents of  
 ballot.

§ 4. When the electors vote by ballot, all the officers voted for shall be named in one ballot, which shall contain written or printed or partly written and partly printed, the names of the persons voted for, and the offices to which such persons are intended to be chosen, and shall be delivered to the presiding officers so folded as to conceal the contents.

Poll list.

§ 5. When the election is by ballot, a poll list shall be kept by clerk of the meeting, on which shall be entered the name of each person whose vote shall be received.

Box.

§ 6. When the election is by ballot, the presiding officers shall deposit the ballots in a box to be constructed, kept, and disposed of, as near as may be, in the manner prescribed in the fourth Title of Chapter sixth of this act.

Canvass.

§ 7. At the close of every election by ballot, the presiding officers shall proceed publicly to canvass the votes; which canvass, when commenced, shall be continued without adjournment or interruption, until the same be completed.

It.

§ 8. Before the ballots are opened, they shall be counted and compared with the poll list, and the like proceedings shall be had as to ballots folded together, and as to differences in number, as are prescribed in the fourth Title of the sixth Chapter of this act.

It. statement  
 of result.

§ 9. The canvass being completed, a statement of the result shall be entered at length by the clerk of the meeting, in the minutes of its proceedings to be kept by him as before required, which shall be publicly read by him to the meeting; and such reading shall be deemed notice of the result of such election, to every person whose name shall have been entered on the poll list as a voter.

Notice to  
 persons  
 elected.

§ 10. The clerk of every town-meeting, within ten days thereafter, shall transmit to each person elected to any town office, whose name shall not have been entered on the poll list as a voter, a notice of his election.

## ARTICLE SECOND.

### *Of the Qualifications of Town Officers, and the Tenure of their Offices.*

Sec. 11. Must be an elector of the town.

12. Loan officers appointed under the act of 1792, ineligible to the office of superintendent.

13. Certain officers required to take the oath of office.

14. Oath to be certified.

15. Certificate of oath to be filed with town clerk.

16. Neglect to take and file certificate of oath, deemed a refusal to serve.

17. Certain officers to give notice of their acceptance of their offices.

18. Neglect to give such notice to be deemed a refusal to serve.

19. Collector to give bond with sureties.

20. Bond to be filed with county clerk, and entry to be made by him: it effect to a lien

- 21. Constables to take oath of office, and to give security.
- 22. Sureties how to be approved of. Certified copy of instrument evidence.
- 23. Suits against constables and sureties, to be brought within two years.
- 24. Collector or constable neglecting to give security, or constable neglecting to take oath; deemed a refusal to serve.
- 25. Supervisor and certain other officers to forfeit fifty dollars for refusing to serve.
- 26. Commissioners of schools and certain other officers to forfeit ten dollars for such refusal.
- 27. Quakers not liable to penalty for not serving as assessors.
- 28. Affirmation to be made and filed by them.
- 29. Penalty on town officers who are required to take oath, for acting without taking it.
- 30. Town officers to hold for one year, and until successors have qualified.

§ 11. No person shall be eligible to any town office, unless he <sup>Who eligible.</sup> all be an elector of the town for which he shall be chosen.<sup>18</sup>

§ 12. No loan officer, appointed under the act of the 14th of <sup>Loan officer.</sup> March, 1792, entitled, "An act for loaning monies belonging to this state," shall during his continuance in that office, be eligible to the office of supervisor.

§ 13. Every person chosen or appointed to the office of supervi- <sup>Oath of of-</sup> r, town clerk, assessor, overseer of the poor, commissioner of high- <sup>ficc.</sup> ways, or town sealer, before he enters on the duties of his office, and within ten days after he shall be notified of his election or appointment, shall take and subscribe before some justice of the peace, or commissioner of deeds, the oath of office prescribed in the sixth Article of the constitution of this state.<sup>18</sup>

§ 14. Such oath shall be administered without reward, and the <sup>ju-</sup> stice or commissioner, before whom the same shall be taken, shall <sup>st-</sup> not without reward, certify in writing the day and year when the <sup>re-</sup> oath was taken, and shall deliver such certificate to the person by <sup>whom</sup> the oath was made.<sup>18</sup>

§ 15. Such person within eight days thereafter, shall cause the <sup>cer-</sup> tificate to be filed in the office of the town clerk.<sup>18</sup>

§ 16. If any person chosen or appointed to either of the town offi- <sup>Neglect to</sup> ces above enumerated, shall not take and subscribe such oath, and <sup>take oath.</sup> use the certificate thereof to be filed as above required, such neglect shall be deemed a refusal to serve.<sup>18</sup>

§ 17. Every person chosen or appointed to the office of overseer <sup>Notice of ac-</sup> of highways, or commissioner or inspector of common schools, or <sup>ceptance.</sup> school-master, before he enters on the duties of his office, and within ten days after he shall be notified of his election or appointment, shall cause to be filed in the office of the town clerk, a notice in writing certifying his acceptance of such office.<sup>19</sup>

§ 18. If any person chosen or appointed to either of the offices <sup>Neglect to</sup> mentioned in the last section, shall not cause such notice to be filed, such <sup>file notice of</sup> neglect shall be deemed a refusal to serve.<sup>19</sup> <sup>acceptance.</sup>

By 2 R. L. 126, § 1; 2 R. L. 129, § 7; Laws of 1821, p. 120; 1823, p. 207, § 4. (19)  
Laws of 1821, p. 120, § 1 & 3.

TITLE 3.  
Collector to  
give bond,

§ 19. Every person chosen or appointed to the office of collector, before he enters on the duties of his office, and within eight days after he receives notice of the amount of the taxes to be collected by him, shall execute to the supervisor of the town and lodge with him, a bond with one or more sureties, to be approved of by such supervisor, in double the amount of such taxes, conditioned for the faithful execution of his duties as such collector.<sup>20</sup>

D.

§ 20. The supervisor shall within six days thereafter, file such bond, with his approbation endorsed thereon, in the office of the county clerk, who shall make an entry thereof, in a book to be provided for the purpose, in the same manner in which judgments are entered of record; and every such bond shall be a lien on all the real estate held jointly or severally by the collector or his sureties, within the county, at the time of the filing thereof; and shall continue to be such lien, till its condition, together with all costs and charges which may accrue by the prosecution thereof, shall be fully satisfied.<sup>20</sup>

Constable to  
take oath and  
give security.

§ 21. Every person chosen or appointed to the office of constable, before he enters on the duties of his office, and within eight days after he shall be notified of his election or appointment, shall take and subscribe the oath of office prescribed by the constitution, and shall execute, in the presence of the supervisor or town clerk of the town, with one or more sureties, to be approved of by such supervisor or town clerk, an instrument in writing, by which such constable and his sureties shall jointly and severally agree to pay to each and every person who may be entitled thereto, all such sums of money as the said constable may become liable to pay, on account of any execution which shall be delivered to him for collection.<sup>21</sup>

H.

§ 22. The supervisor or town clerk shall endorse on such instrument, his approbation of the sureties therein named, and shall then cause the same to be filed in the office of the town clerk; and a copy of such instrument, certified by the town clerk, shall be presumptive evidence in all courts, of the execution thereof by such constable and his sureties.<sup>21</sup>

Ib. Limita-  
tion of suits  
thereon.

§ 23. All actions against a constable or his sureties, upon any such instrument, shall be prosecuted within two years after the expiration of the year for which the constable named therein shall have been elected.<sup>22</sup>

Refusal to  
serve.

§ 24. If any person chosen or appointed to the office of collector or constable, shall not give such security and take such oath, as is above required, within the time limited for that purpose, such neglect shall be deemed a refusal to serve.<sup>23</sup>

(20) 2 R. L. 126, § 1; Laws of 1823, p. 400, § 26. (21) 2 R. L. 126, § 1. (22) Ib. 127. (23) Ib. 129, § 7.

§ 25. If any person chosen or appointed to the office of supervisor, town clerk, assessor, commissioner of highways, or overseer of the poor, shall refuse to serve, he shall forfeit to the town the sum of fifty dollars.<sup>24</sup> ART. 3.  
Penalties therefor.

§ 26. If any person chosen or appointed to the office of commissioner or inspector of common schools, overseer of highways, pound-master, or town sealer, shall refuse to serve, he shall forfeit to the town, the sum of ten dollars.<sup>24</sup> Ib.

§ 27. No quaker or reputed quaker, chosen or appointed to the office of assessor, shall be liable to such penalty, if he shall affirm, within three days after receiving notice of his election or appointment, that he has conscientious scruples about executing the duties of said office.<sup>25</sup> Quaker chosen assessor.

§ 28. Such affirmation shall be made before some one of the justices of the town, who shall, without reward, certify in writing, the day and year when the same was taken, and deliver such certificate to the person by whom such affirmation was made, and such person, within eight days thereafter, shall cause said certificate to be filed in the office of the town clerk. Ib.

§ 29. If any town officer who is required by law to take the oath of office, shall enter upon the duties of his office, before he shall have taken such oath, he shall forfeit to the town the sum of fifty dollars.<sup>25</sup> Penalty for acting without oath.

§ 30. Town officers shall hold their offices for one year, and until others are chosen or appointed in their places, and have qualified.<sup>26</sup> Tenure of office.

### ARTICLE THIRD.

#### *Of Vacancies in Town Offices and the mode of supplying them.*

Sec. 31. Where town neglects to choose, justices may appoint by warrant.

32. Warrant to be filed with town clerk : notice to be given.

33. Justices may, on cause shown, accept the resignations of town officers.

34. In case of certain vacancies, special town-meeting to be called.

35. In certain cases, if vacancy be not supplied within fifteen days by such town-meeting, justices may appoint.

36. Vacancies in certain offices, how supplied.

§ 31. If any town shall neglect, at its annual town-meeting, to choose its proper town officers, or either of them, it shall be lawful for any three justices of the peace of the said town, by warrant under their hands and seals, to appoint such officers; and the persons so appointed shall hold their respective offices until others are chosen or appointed in their places, and shall have the same powers and be subject to the same duties and penalties, as if they had been duly chosen by the electors.<sup>27</sup> If town neglect to choose, justices to appoint.

(24) 2 R. L. 129, § 9; Ib. 130, § 10; Laws of 1821, p. 120, § 1 & 3. (25) 2 R. L. 129, § 9 & 10. (26) 2 R. L. 126, § 1. (27) Ib. 127, § 5.

**TITLE 4.** § 32. The justices making such appointment, shall cause such warrant to be forthwith filed in the office of the town clerk, who shall forthwith give notice to the person appointed.

Appointment where filed, &c.

Resignation of town officers. § 33. Any three justices of the peace of a town may, for sufficient cause shown to them, accept the resignation of any town officer of their town; and whenever they shall accept any such resignation, they shall forthwith give notice thereof to the town clerk of the town.

Special town-meeting to supply vacancies. § 34. If any person chosen or appointed to the office of supervisor, commissioner of highways, or overseer of the poor, shall refuse to serve, or shall die, or resign, or remove out of the town, or become incapable of serving before the next annual town-meeting after he shall have been chosen or appointed, the town clerk shall, within eight days after the happening of such vacancy, call a special town-meeting for the purpose of supplying the same.<sup>28</sup>

Ib. when justices to appoint. § 35. If the electors shall not, within fifteen days after the happening of such vacancy, supply the same by an election at town-meeting, the same shall be supplied by the justices of the town, in the like manner and with the like effect as above provided.<sup>28</sup>

Other vacancies. § 36. Vacancies in all town offices, except the office of supervisor, assessor, commissioner of highways, overseer of the poor, collector, or overseer of highways, shall be supplied by the justices of the town, in the manner provided in the thirty-first section of this Title. Vacancies in the office of collector shall be supplied in the manner prescribed in Chapter thirteen, and vacancies in the office of overseer of highways, in the manner prescribed in Chapter sixteen of this act.

## TITLE IV.

### OF THE GENERAL DUTIES OF CERTAIN TOWN OFFICERS, AND OF VARIOUS MATTERS CONNECTED THEREWITH.

- ART. 1.—Duties of the supervisor.  
 ART. 2.—Duties of the town clerk.  
 ART. 3.—Of strays.  
 ART. 4.—Of division and other fences.  
 ART. 5.—Of the board of auditors of town accounts.  
 ART. 6.—Of the compensation of town officers.

#### ARTICLE FIRST.

##### *Duties of the Supervisor.*

- SEC. 1. To receive and disburse, certain town monies.  
 2. To sue for all penalties of \$50 or under, given to his town, for which no other officer is directed to sue.  
 3. To keep account of monies received and disbursed by him.  
 4. To account annually to justices and town clerk.  
 5. Certificate of the state of his accounts to be made by them.

Sec. 6. To attend meetings of the board of supervisors of his county.

7. To receive accounts to be laid before board.

8. To lay before board of supervisors, copies of entries received from town clerk.

9. To cause survey and map to be made of his town when required by surveyor-general; expense how paid.

10. To forfeit \$50 if he neglects the duties enjoined in the last section.

ART

§ 1. The supervisor of each town shall receive and pay over all monies raised therein for defraying town charges, except those raised for the support of highways and bridges, of common schools, and of the poor, where poor monies shall be raised.<sup>29</sup>

§ 2. He shall prosecute in the name of his town, or otherwise, as may be necessary, for all penalties of fifty dollars or under, given by law to such town or for its use, and for which no other officer is specially directed to prosecute.

§ 3. He shall keep a just and true account of the receipt and expenditure of all monies which shall come into his hands by virtue of his office, in a book to be provided for that purpose, at the expense of the town, and to be delivered to his successor in office.

§ 4. On the Tuesday preceding the annual town-meeting, he shall account with the justices of the peace and town clerk, of the town, for the disbursement of all monies received by him.<sup>29</sup>

§ 5. At every such accounting, the justices and town clerk shall enter a certificate in the supervisor's book of accounts, showing the state of his accounts at the date of the certificate.

§ 6. The supervisor of each town shall attend the annual meeting of the board of supervisors of the county, and every adjourned or special meeting of such board, of which he shall have notice.<sup>29</sup>

§ 7. He shall receive all accounts which may be presented to him on behalf of the town, and shall lay them before the board of supervisors, at their next meeting.

8. He shall also lay before the board of supervisors such copies of entries concerning monies voted to be raised in his town, as shall be delivered to him by the town clerk.

9. Whenever the supervisor of any town shall be required by the surveyor-general to cause a survey to be made of the bounds of his town, it shall be the duty of such supervisor, within sixty-days thereafter, to cause such survey to be made, and to transmit by mail, or otherwise, a map and description thereof to the surveyor-general. The expense of such survey and map shall be defrayed by the several owners whose bounds either wholly or in part shall be described by such survey, such expense to be apportioned by the board of supervisors of the county.<sup>30</sup>

**TITLE 4.** § 32. The justices making such appointment, shall cause such warrant to be forthwith filed in the office of the town clerk, who shall forthwith give notice to the person appointed.

Appointment where filed, &c.

Resignation of town officers. § 33. Any three justices of the peace of a town may, for sufficient cause shown to them, accept the resignation of any town officer of their town; and whenever they shall accept any such resignation, they shall forthwith give notice thereof to the town clerk of the town.

Special town-meeting to supply vacancies. § 34. If any person chosen or appointed to the office of supervisor, commissioner of highways, or overseer of the poor, shall refuse to serve, or shall die, or resign, or remove out of the town, or become incapable of serving before the next annual town-meeting after he shall have been chosen or appointed, the town clerk shall, within eight days after the happening of such vacancy, call a special town-meeting for the purpose of supplying the same.<sup>28</sup>

Ib. when justices to appoint. § 35. If the electors shall not, within fifteen days after the happening of such vacancy, supply the same by an election at town-meeting, the same shall be supplied by the justices of the town, in the like manner and with the like effect as above provided.<sup>28</sup>

Other vacancies. § 36. Vacancies in all town offices, except the office of supervisor, assessor, commissioner of highways, overseer of the poor, collector, or overseer of highways, shall be supplied by the justices of the town, in the manner provided in the thirty-first section of this Title. Vacancies in the office of collector shall be supplied in the manner prescribed in Chapter thirteen, and vacancies in the office of overseer of highways, in the manner prescribed in Chapter sixteen of this act.

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#### ARTICLE FIRST.

##### *Duties of the Supervisor.*

- Sec. 1. To receive and disburse, certain town monies.  
 2. To sue for all penalties of \$50 or under, given to his town, for which no other officer is directed to sue.  
 3. To keep account of monies received and disbursed by him.  
 4. To account annually to justices and town clerk.  
 5. Certificate of the state of his accounts to be made by them.



SEC. 6. To attend meetings of the board of supervisors of his county.

7. To receive accounts to be laid before board.

8. To lay before board of supervisors, copies of entries received from town clerk.

9. To cause survey and map to be made of his town when required by surveyor-general ; expense how paid.

10. To forfeit \$50 if he neglects the duties enjoined in the last section.

ART. 1.

§ 1. The supervisor of each town shall receive and pay over all monies raised therein for defraying town charges, except those raised for the support of highways and bridges, of common schools, and of the poor, where poor monies shall be raised.<sup>29</sup> To receive and pay town monies.

§ 2. He shall prosecute in the name of his town, or otherwise, as may be necessary, for all penalties of fifty dollars or under, given by law to such town or for its use, and for which no other officer is specially directed to prosecute. To sue for penalties.

§ 3. He shall keep a just and true account of the receipt and expenditure of all monies which shall come into his hands by virtue of his office, in a book to be provided for that purpose, at the expense of the town, and to be delivered to his successor in office. To keep accounts.

§ 4. On the Tuesday preceding the annual town-meeting, he shall account with the justices of the peace and town clerk, of the town, for the disbursement of all monies received by him.<sup>29</sup> To account.

§ 5. At every such accounting, the justices and town clerk shall enter a certificate in the supervisor's book of accounts, showing the state of his accounts at the date of the certificate.

§ 6. The supervisor of each town shall attend the annual meeting of the board of supervisors of the county, and every adjourned or special meeting of such board, of which he shall have notice.<sup>29</sup> To attend board of supervisors.

§ 7. He shall receive all accounts which may be presented to him against the town, and shall lay them before the board of supervisors, at their next meeting.

§ 8. He shall also lay before the board of supervisors such copies of entries concerning monies voted to be raised in his town, as shall be delivered to him by the town clerk.

§ 9. Whenever the supervisor of any town shall be required by the surveyor-general to cause a survey to be made of the bounds of his town, it shall be the duty of such supervisor, within sixty-days thereafter, to cause such survey to be made, and to transmit by mail, or otherwise, a map and description thereof to the surveyor-general. The expense of such survey and map shall be defrayed by the several towns, whose bounds either wholly or in part shall be described thereby ; such expense to be apportioned by the board of supervisors of the county.<sup>30</sup> When to cause survey to be made of his town.

(29) § R. L. 128, § 2 ; 280, § 81 ; Laws of 1819, p. 190, § 6. (30) 2 R. L. 128, § 81 ; 1 R. L. 488, § 3 & 4.

## TITLE 4.

Penalty for neglect.

§ 10. If any supervisor shall refuse or neglect to perform the duties enjoined in the last preceding section, he shall forfeit the sum of fifty dollars.<sup>31</sup>

## ARTICLE SECOND.

*Duties of the Town Clerk.*

- SEC. 11. To keep records, books and papers of town, and to file papers.  
 12. To record minutes of the proceedings of town-meetings.  
 13. To deliver certified copies of certain entries to supervisor.  
 14. To return to county clerk, names of constables elected in his town.  
 15. Penalty for neglect to make such return.  
 16. Copies of papers, and transcripts from records certified by him, to be evidence.

To have custody of books and papers, &c.

§ 11. The town clerk of each town in this state, shall have the custody of all the records, books and papers of the town; and he shall duly file all certificates of oaths, and other papers required by law to be filed in his office.

Minutes, &c.

§ 12. He shall transcribe, in the book of records of his town, the minutes of the proceedings of every town-meeting held therein; and he shall enter in such book every order or direction, and all rules and regulations, made by any such town-meeting.<sup>32</sup>

Copies of entries.

§ 13. He shall deliver to the supervisor, before the annual meeting of the board of supervisors of the county, in each year, certified copies of all entries of votes for raising money, made since the last meeting of the board of supervisors, and recorded in the town book.<sup>33</sup>

Names of constables.

§ 14. The town clerks, immediately after the qualifying of any constables chosen or appointed, in their respective towns, shall return to the clerks of their respective counties, the names of such constables.<sup>34</sup>

Penalty.

§ 15. If any town clerk shall wilfully omit to make such return, such omission is hereby declared to be a misdemeanor: and on conviction thereof, the person offending shall be adjudged to pay a fine not exceeding ten dollars.<sup>34</sup>

Certified copies of papers evidence.

§ 16. Copies of all papers duly filed in the office of the town clerk, including those filed with him as clerk of the commissioners of common schools, and transcripts from the book of records, certified by him, shall be evidence, in all courts, in like manner as if the originals were produced.

## ARTICLE THIRD.

*Of Strays.*

SEC. 17. Persons having strays on their enclosed lands, between first of November and first of April, to deliver to town clerk, a note in writing, containing a description of each stray.

18. Consequences of neglect to deliver such note.

19. Town clerk to make entry of such notes; his fees therefor.

(31) 2 R. L. 136, § 31; 1 R. L. 483, § 8 and 4. (32) 2 R. L. 131, § 12. (33) 1 R. L. 287, § 23. (34) 2 R. L. 123, § 8; Laws of 1819, p. 81.

Sec. 20. Book of entries to be kept open for inspection.

ART. 3.

21. Compensation and charges to be paid to person delivering note ; charges to be ascertained by fence viewers.

22. Fees of fence viewers ; by whom to be paid.

23. If strays are not redeemed before first day of May, charges to be ascertained by fence-viewer, and certificate to be given by him ; his fees therefor.

24. Strays if not redeemed, may be sold by public auction.

25. Notice of sale how to be given.

26. Monies arising from sale how to be disposed of.

27. Residuary monies, if not claimed by owner within one year, to be paid to supervisors.

28. Penalty for neglect to pay over such residuary monies.

29. Cities considered towns for purposes of this Article.

§ 17. Whenever any person shall at any time have any strayed horse upon his enclosed land, or shall, between the first day of November in any year, and the first day of April thereafter, have any strayed neat cattle or sheep upon his enclosed lands, such person shall, within ten days after the coming of any such stray thereon, deliver to the clerk of the town within which such lands shall be, a note in writing, containing the name and place of abode of such person, and the age, colour, and marks, natural and artificial, of each stray, as near as may be.<sup>35</sup>

Note in writing to be delivered.

§ 18. If any person upon whose enclosed lands any such neat cattle, horses or sheep, shall come, shall neglect to deliver such note in writing, to the town clerk, within the time above required, he shall be precluded from all the benefits of this Article, and from all claim to compensation for keeping such strays.

Consequences of omission.

§ 19. The town clerk, on the receipt of every such note, shall enter the same at large in a book to be provided by him for that purpose ; for which entry he shall receive six cents each for all neat cattle and horses, and three cents for each sheep, to be paid by the person delivering the note.<sup>35</sup>

Duty of town clerk.

§ 20. The book in which such entries shall be made, shall always be kept open to inspection ; and no fee shall be taken by the clerk for any search therein.<sup>35</sup>

§ 21. The person delivering the note shall be entitled to receive therefor nine cents each, for all neat cattle and horses, and three cents for each sheep described in the note ; and he may detain such strays until the owner thereof shall appear and pay such fees, together with the fees paid or due to the clerk, and all reasonable charges for keeping the strays ; such charges being first ascertained by two of the fence viewers of the town, to be selected by the person claiming the same, in case he and the owner of the stray cannot otherwise agree.<sup>35</sup>

Charges of the person giving such note.

§ 22. Each fence viewer shall be entitled to receive six cents for every mile he shall be obliged to travel, from his house to the place

Fees of fence viewers.

**TITLE 4.** where such strays are kept, and twenty-five cents for a certificate of the charges as ascertained by him ; such fees to be paid by the owner of the strays.<sup>36</sup>

Proceedings  
if strays are  
not redeemed

§ 23. Every person who shall deliver any such note, and keep any stray described therein, shall, if the same be not sooner claimed and redeemed, between the first day of May and the twentieth day thereafter, give notice to one of the fence-viewers of the town, whose duty it shall be to ascertain, according to the best of his knowledge and judgment, the reasonable charges of keeping such stray, a certificate whereof shall be given by him to the person applying for the same. The fence-viewer shall be entitled to the like fees as above provided, to be paid by the person applying for the certificate.<sup>36</sup>

Ib. Sale of  
strays.

§ 24. If no owner shall appear to claim such stray, on or before the first day of May next after the making of such entry, or if the owner shall refuse or neglect to pay the sums charged on such stray, then the person who shall have delivered such note, and kept such stray, may proceed to sell the same by public auction, to the highest bidder.<sup>37</sup>

Notice of sale

§ 25. Such person shall give at least twenty days previous notice of the time and place of such sale, by advertisement, to be posted up at three of the most public places in the town where the strays shall have been kept.<sup>37</sup>

Monies arising from sale,  
how disposed  
of.

§ 26. Out of the monies arising from such sale, he shall retain for his own use the sums charged on such strays for the aforesaid note in writing, entry and certificate, together with the sum specified in the certificate for keeping such strays, and the like charges for such sale as are allowed on sales under executions issued out of justices' courts. He shall pay the residue of said monies, on demand, to the owner of the strays, if he shall appear to demand the same.<sup>37</sup>

Ib.

§ 27. If the owner shall not appear and demand the residue of such monies, within one year after the sale, he shall be forever precluded from recovering any part of such monies ; and the aforesaid residue shall be paid to the supervisor of such town, for the use of the town ; and his receipt shall be a legal discharge to the keeper of such strays.<sup>37</sup>

Ib.

§ 28. If the person who shall have sold such strays, shall not, within thirty days after the expiration of the year, pay such residuary monies to the supervisor of the town, he shall forfeit to the town double the sum so remaining in his hands, together with the amount of such residuary monies.<sup>37</sup>

Cities.

§ 29. Each of the cities of this state shall be considered towns for the purposes of this Article.<sup>38</sup>

## ARTICLE FOURTH.

ART. 4.

*Of Division and other Fences.*

§ 30. Owners of adjoining land to make and maintain division fences, unless either chooses to let such land lie open.

31. Person who shall have chosen to let his land lie open, if he afterwards enclose it, to refund or build his proportion.

32. Proportion to be paid or built by him how ascertained.

33. Disputes concerning division fences, to be settled by fence-viewers.

34. Manner in which fence-viewers are to be selected.

35. Fence-viewers to examine premises, &c. ; if they disagree, another to be selected.

36. Decision of fence-viewers to be reduced to writing and filed.

37. Damages from neglect to make or repair division fence, to be appraised by fence-viewers, and recovered by the party injured.

38. In case of continued neglect, fence may be made or repaired by the party injured.

39. Division fence may be removed after notice given, and with permission of fence-viewers.

40. Party removing such fence without permission, liable for damages.

41. Division fence destroyed by injury or casualty, how repaired.

42. Party refusing or neglecting to make such reparation, liable for damages.

43. Witnesses may be examined before fence-viewers.

44. Persons who neglect to keep a regular fence, not to recover damages in certain cases.

45. Fence presumed to be sufficient, until contrary be shewn.

§ 30. Where two or more persons shall have lands adjoining, each of them shall make and maintain a just proportion of the division fence between them, except the owner or owners of either of the adjoining lands shall choose to let such land lie open. Division fence to be maintained.


§ 31. Where a person shall have chosen to let his land lie open, if he shall afterwards enclose it, he shall refund to the owner of the adjoining land, a just proportion of the value at that time, of any division fence that shall have been made by such adjoining owner ; or he shall build his proportion of such division fence. Ib. When land shall have laid open.

§ 32. The value of such fence, and the proportion thereof to be paid by such person, and the proportion of the division fence to be built by him, in case of his enclosing his land, shall be determined by any two of the fence-viewers of the town. Ib.

§ 33. If disputes arise between the owners of adjoining lands, concerning the proportion of fence to be maintained or made by either of them, such disputes shall be settled by any two of the fence-viewers of the town. Disputes how settled.

§ 34. When any of the above mentioned matters shall be submitted to fence-viewers, each party shall choose one ; and if either neglect, after eight days' notice, to make such choice, the other party may select both. Ib.

§ 35. The fence-viewers shall examine the premises, and hear the allegations of the parties. In case of their disagreement, they shall select another fence-viewer to act with them, and the decision of any two shall be final upon the parties to such dispute, and upon all parties holding under them. Proceedings of fence viewers.

TITLE 4.  
  
 Proceedings  
 of fence view-  
 ers.

§ 36. The decision of the fence-viewers shall be reduced to writing, shall contain a description of the fence, and of the proportion to be maintained by each, and shall be forthwith filed in the office of the town clerk.

Neglect to  
 make or re-  
 pair fence.

§ 37. If any person who is liable to contribute to the erection or reparation of a division fence, shall neglect or refuse to make and maintain his proportion of such fence, or shall permit the same to be out of repair, he shall be liable to pay to the party injured, all such damages as shall accrue thereby, to be ascertained and appraised by any two fence-viewers of the town, and to be recovered, with costs of suit. The appraisement shall be reduced to writing, and signed by the fence-viewers making it.

1b.

§ 38. If such neglect or refusal shall be continued for the period of one month after request in writing, to make or repair such fence, the party injured may make or repair the same, at the expense of the party so neglecting or refusing, to be recovered from him, with costs of suit.

When fence  
 may be re-  
 moved.

§ 39. If any person who shall have made his proportion of a division fence, shall be disposed to remove his fence, and suffer his lands to lie open, he may, at any time between the first day of November, in any year, and the first day of April following, but at no other time, give ten days notice to the owner or occupant of the adjoining land, of his intention to apply to the fence-viewers of the town, for permission to remove his fence; and if at the time specified in such notice, any two of such fence-viewers, to be selected as aforesaid, shall determine that such fence may with propriety be removed, he may then remove the same.

1b.

§ 40. If any such fence shall be removed without such notice and permission, the party removing the same, shall pay to the party injured, all such damages as he may sustain thereby, to be recovered, with costs of suit.

Fence de-  
 stroyed by  
 accident to  
 be repaired.

§ 41. Whenever a division fence shall be injured or destroyed by floods, or other casualty, the person bound to make and repair such fence, or any part thereof, shall make or repair the same, or his just proportion thereof, within ten days after he shall be thereunto required by any person interested therein. Such requisition shall be in writing, and signed by the party making it.

1b.

§ 42. If such person shall refuse or neglect to make or repair his proportion of such fence, for the space of ten days after such request, the party injured may make or repair the same, at the expense of the party so refusing or neglecting, to be recovered from him, with costs of suit.

§ 43. Witnesses may be examined by the fence-viewers on all questions submitted to them, and either of such fence-viewers shall have power to issue subpoenas for, and to administer oaths to, such witnesses.

ART. 5  
Powers of fence-viewers.

§ 44. Whenever the electors of any town shall have made any rule or regulation, prescribing what shall be deemed a sufficient fence in such town, any person who shall thereafter neglect to keep a fence according to such rule or regulation, shall be precluded from recovering compensation in any manner, for damages done by any beast lawfully going at large on the highways, that may enter on any lands of such person, not fenced in conformity to the said rule or regulation, or for entering through any defective fence.

In certain cases damages not to be recovered.

§ 45. When the sufficiency of a fence shall come in question in any suit, it shall be presumed to have been sufficient, until the contrary be established.<sup>39</sup>

Sufficiency of fence.

ARTICLE FIFTH.

*Of the Board of Auditors of Town Accounts.*

Sec. 46. Supervisor, town clerk and justices to be auditors of certain accounts.

47. Board of auditors to meet on the Tuesday preceding annual town-meeting.

48. Accounts audited to be filed with town clerk, and read at town-meeting.

49. Justices and town clerk to audit supervisor's accounts.

§ 46. In each town, the supervisor and town clerk, together with the justices of the town, or any two of such justices, shall constitute a board of auditors, to examine the accounts of the overseers of the poor, the commissioners of common schools, and the commissioners of highways of such town, for monies received and disbursed by them.<sup>40</sup>

Who to constitute board.

(See Ch. 16, Title 1, § 3, and Ch. 30, Title 1, § 45.)

§ 47. The board of auditors of town accounts shall meet for the purpose of examining the same, annually, in each town in this state, on the Tuesday preceding the annual town-meeting to be held in such town.<sup>40</sup>

Board when to meet.

§ 48. The accounts so audited, shall be delivered, with the certificate of the auditors, to the town clerk, to be by him kept on file, for the inspection of any of the inhabitants of the town. They shall also be produced by the town clerk, at the next annual town-meeting, and shall be there read by him, if the same shall be required by the meeting.<sup>40</sup>

Accounts when audited, how disposed of.

§ 49. The justices of the town, or a majority of them, and the town clerk, shall, on the Tuesday preceding the annual town-meeting, in each year, examine and audit the accounts of the supervisor, for monies received and disbursed by him. The accounts, so audited, shall be filed in the office of the town clerk, as above provided.<sup>40</sup>

Auditors of supervisor's accounts.

(39) Compiled with some variations and additions from 2 R. L. 133, § 17 and 18. (40) 1 R. L. 290, § 26; 2 R. L. 138, § 2; ib. 280, § 81; Laws of 1819, p. 196, § 17.

## TITLE 5.

## ARTICLE SIXTH.

*Of the Compensation of Town Officers.*

SEC. 50. Certain officers to receive \$1 25, and others \$1 per day.

51. Compensation of town clerk to be fixed by board of supervisors.

52. Fees of pound masters.

Daily pay of assessors, &c

§ 50. The following town officers shall be entitled to compensation at the following rates, for each day actually and necessarily devoted by them to the service of the town, in the duties of their respective offices :

1. Assessors and inspectors of elections, and clerks of the poll, one dollar and twenty-five cents a day.

2. Commissioners of highways, commissioners and inspectors of common schools, and overseers of the poor, one dollar a day.

Pay of town clerk.

§ 51. The town clerk shall be entitled to such compensation for his services, including those performed as clerk of the commissioners of common schools, as the board of supervisors of his county shall allow.

Pound-masters' fees.

§ 52. The pound-masters shall be allowed the following fees for their services, to wit: For taking into the pound and discharging therefrom, every horse, ass or mule, and all neat cattle, twelve and a half cents each; for every sheep or lamb, three cents; and for every hog, six cents.<sup>41</sup>

## TITLE V.

## OF LEGAL PROCEEDINGS IN FAVOR OF AND AGAINST TOWNS.

SEC. 1. The like proceedings allowed in controversies with and between towns, as between individuals and corporations.

2. Towns to sue or be sued by their names, except where town officers are authorized to sue.

3. Process to be served on supervisor; his duty.

4. Inhabitants when competent witnesses and jurors.

5. Towns may sue before justices of the peace; regulations concerning such suits.

6. In actions to recover for trespasses to town lands, if damages exceed penalty, the amount of such damages to be recovered.

7. Partition of town lands, when to be decreed.

8. Costs recoverable in favor of or against towns; judgments against towns and town officers, to be a town charge.

Proceedings to try controversies between towns, &c.

§ 1. Whenever any controversy or cause of action shall exist between any towns of this state, or between any town and an individual or corporation, such proceedings shall be had, either at law, or in equity, for the purpose of trying and finally settling such controversy, and the same shall be conducted in like manner, and the judgment or decree therein shall have the like effect, as in other suits or proceedings of a similar kind, between individuals and corporations.<sup>42</sup>

(41) As to this Article, see 2 R. L. 134, § 21; ib. 282, § 35; Laws of 1819, p. 192, § 11.

(42) Laws of 1820, p. 175, § 1 and 2.



§ 2. In all such suits and proceedings, the town shall sue or be sued by its name, except where town officers shall be authorised by law to sue in their name of office, for the benefit of the town.

TITLE 5.  
Town how to sue.

§ 3. In all legal proceedings against towns by name, the first process, and all other proceedings requiring to be served, shall be served on the supervisor of the town; and whenever any such suit or proceeding shall be commenced, it shall be the duty of the supervisor to attend to the defence thereof, and to lay before the electors of the town, at the first town-meeting, a full statement of such suit or proceeding, for their direction in regard to the defence thereof.

Process to be served on supervisor.

§ 4. On the trial of every action in which a town shall be a party or be interested, the electors and inhabitants of such town shall be competent witnesses and jurors, except that in suits and proceedings by and against towns, no inhabitant of either town shall be a juror.<sup>43</sup>

Inhabitants when competent witnesses and jurors.

§ 5. Any action in favor of a town, which, if brought by an individual, could be prosecuted before a justice of the peace, may be prosecuted by such town, in like manner, before any such justice; but no action to recover a penalty given to a town, shall be brought before any of the justices of the peace residing in the town, for the benefit of which the same is prosecuted; but all such actions may be brought before any one of the justices of the peace residing in any other town in the same county.<sup>44</sup>

Actions in favor of a town may be bro't before a justice.

§ 6. Whenever any action shall be brought to recover a penalty, imposed for any trespass committed on the lands of a town, if it shall appear, on the trial thereof, that the actual amount of injury to such town lands, in consequence of such trespass, exceeded the sum of twelve dollars and fifty cents, then the amount of the actual damage, with costs of suit, shall be recovered in such action, instead of any penalty for the same trespass, imposed by the town-meeting; and such recovery shall be a bar to every other suit for the same trespass.<sup>45</sup>

Actions for penalties for trespass on town lands.

[See ante, p. 341.]

§ 7. Whenever, by any decree or decision in any suit or proceeding, brought to settle any controversy in relation to town commons, or other lands the common property of a town, or for the partition thereof, the rights of any town shall be settled and confirmed, the court in which such proceedings shall be had, may partition such lands, according to the right, as decided and settled.<sup>46</sup>

When court may order partition.

§ 8. In all suits or proceedings prosecuted by or against towns, or by or against town officers in their name of office, costs shall be recoverable as in the like cases between individuals. Judgments recovered against a town, or against town officers in actions prosecuted by or against them in their name of office, shall be a town charge, and when

Costs. Judgments when a town charge.

(43) 2 R. L. 132, § 14. (44) *Ib.* 131, § 12. (45) Laws of 1823, p. 207, § 5. (46) Laws of 1820, p. 176, § 2.

TITLE 6. levied and collected, shall be paid to the person to whom the same shall have been adjudged.

## TITLE VI.

### MISCELLANEOUS PROVISIONS OF A GENERAL NATURE.

- Sec. 1. Pounds to be kept in each town ; but town-meeting may discontinue them.  
 2. What shall be deemed town charges.  
 3. Accounts for certain town charges to be presented to the board of supervisors.  
 4. Monies to defray town charges, how raised.  
 5 & 6. Certain town officers required to demand the records, books and papers belonging to their office, of their predecessors.  
 7. Such predecessors to deliver over records, &c. on oath : certain town officers to pay over monies in their hands.  
 8. If officer be dead, demand to be made of his executors or administrators, who are to comply therewith.  
 9. Penalty for refusing to deliver records, &c. ; mode in which delivery is to be compelled.

**Pounds.** § 1. Whenever the inhabitants of any town shall determine, at an annual town-meeting, to erect one or more pounds therein, and wherever a pound shall now be erected in any town, the same shall be kept under the care and direction of such pound-master as shall be chosen or appointed for that purpose. The inhabitants of any town may, at any annual town-meeting, discontinue any pounds therein.<sup>47</sup>

**Town charges.** § 2. The following shall be deemed town charges :  
 1. The compensation of town officers for services rendered for their respective towns ;  
 2. The contingent expenses necessarily incurred for the use and benefit of the town ;  
 3. The monies authorised to be raised by the vote of a town-meeting, for any town purpose ; and,  
 4. Every sum directed by law to be raised for any town purpose.<sup>48</sup>

**Accounts for town charges.** § 3. Accounts for the compensation of town officers, and the contingent expenses of towns, (except for monies received and disbursed which are to be settled by the board of town auditors,) shall be presented to the board of supervisors of the county.

**Monies to defray town charges, how raised.** § 4. The monies necessary to defray the town charges of each town, shall be levied on the taxable property in such town, in the manner prescribed in the twelfth and thirteenth Chapters of this act.

**Certain town officers to demand records &c. of their predecessors.** § 5. Whenever the term of office of any supervisor or town clerk shall expire, and another person shall be elected or appointed to such office, it shall be the duty of such succeeding supervisor or town clerk immediately after he shall have entered on the duties of his office, to demand of his predecessor all the records, books and papers under his control belonging to such office ; and whenever the term of office of

(47) 2 R. L. 124, § 21. (48) 2 R. L. 137, § 2 ; Laws of 1819, p. 192, § 11 ; 1838, p. 203

the commissioners of highways, or of common schools, or of the overseers of the poor of any town shall expire, and another or others shall be elected or appointed, it shall in like manner be the duty of the persons so elected or appointed, to make such demand of their predecessors or predecessor.

TITLE 7.

§ 6. Whenever either of the officers above named, shall resign, and another person shall be elected or appointed in his stead, the person so elected or appointed shall make such demand of the person so resigning.

§ 7. It shall be the duty of every person so going out of office, whenever thereto required pursuant to the foregoing provisions, to deliver upon oath all the records, books and papers in his possession, or under his control, belonging to the office held by him; which oath may be administered by the officer to whom such delivery shall be made. It shall also be the duty of every supervisor, commissioner of highways, or of common schools, and of every overseer of the poor, so going out of office, at the same time to pay over to such successor the balance of monies remaining in his hands, as ascertained by the auditors of town accounts.

Persons going out of office to deliver over records, &c.

§ 8. Upon the death of any of the officers above enumerated, the successors or successor of such officer shall make such demand as above provided, of the executors or administrators of such deceased officer; and it shall be the duty of such executors or administrators to deliver upon the like oath all records, books and papers in their possession, or under their control, belonging to the office held by their testator or intestate.

In case of death, demand to be made of executors, &c.

§ 9. If any person so going out of office, or his executors or administrators, shall refuse or neglect, when thereunto lawfully required, to deliver such records, books or papers, he shall forfeit to the town for every such refusal or neglect, the sum of two hundred and fifty dollars; and it shall also be the duty of the officer or officers entitled to demand such records, books and papers, to proceed to compel the delivery thereof in the manner prescribed in the sixth Title of the fifth Chapter of this act, and to that end the fiftieth, fifty-first, fifty-second, fifty-third, fifty-fourth and fifty-fifth sections of that Title, shall be deemed to apply to the officers above enumerated, and their executors or administrators.

Penalty for refusing to deliver records, &c.

Proceedings to compel delivery.

[See ante, p. 124.]

TITLE VII.

LOCAL AND SPECIAL PROVISIONS.

- Sec. 1. Title to lots used for a certain time as burying grounds, vested in towns.
- 2. Trustees in Huntington, Brookhaven, Rochester and Marbltown, to be elected.
- 3. Trustees in the town of Westchester to be chosen; their powers.

## TITLE 7. Sec. 4. Overseers of highways in Suffolk, Queens, Kings, and Richmond.

5. Towns in certain counties may provide for destruction of noxious weeds.
6. Electors of Kingston to elect overseer of Kingston bridge.
7. Towns in certain counties may allow bounties for destruction of wolves, &c.
8. Who entitled to reward, and proof required.
9. Electors of Fort-Ann may raise money for like purpose.
10. Electors of Dresden may raise money for same purpose.
11. Towns having gospel and school lots to choose trustees.
12. Town of La Fayette to elect trustees.
- 13 & 14. Powers and duties of such trustees.
15. Town of Jamaica to direct the purposes to which certain funds shall be applied.
16. Towns in Kings, Queens and Richmond, to elect measurers of ashes, &c.
17. Towns in Essex and Clinton may elect measurers of charcoal.
18. Town of Oysterbay to regulate disposition of their common lands.
19. If the electors determine to lease such lands, then two persons to be chosen, &c.
20. Rents to be collected by supervisor.
21. Manner in which such rents shall be applied.

Title to burying grounds.

§ 1. The title to every lot or piece of land, which shall have been used by the inhabitants of any town in this state, as a cemetery or burying ground, for the space of fourteen years, next, and immediately before this Title shall take effect, shall be deemed to be vested in such town, and shall be subject in the same manner as other corporate property of towns, to the government and direction of the electors in town-meeting.<sup>49</sup>

Trustees of Huntington, &c.

§ 2. The trustees of the towns of Huntington and Brookhaven, in the county of Suffolk, and of Rochester and Marletown in the county of Ulster, shall be chosen by the electors of those towns respectively, at their annual town-meetings.<sup>50</sup>

Trustees of Westchester.

§ 3. The electors of the town of Westchester, in the county of Westchester, may, at their annual town-meeting, and in the usual manner of electing town officers, choose six freeholders, resident in the town, for trustees; and such trustees, or a majority of them, shall and may order and dispose of all or any part of the undivided lands in the town of Westchester, as fully to every purpose as trustees have been used to do, under any patent or charter to the said town. They may also continue to lease out the right and privilege of setting and keeping a ferry across the East river, from the town of Westchester to the town of Flushing in Queens county, in like manner, at the same rates of ferriage, under the same rules and regulations, and for like purposes as they have lawfully been accustomed to do, since the eighteenth day of April, one thousand seven hundred and eighty-five.<sup>51</sup>

Overseers of highways in Suffolk &c.

§ 4. The electors of the several towns in the counties of Suffolk, Queens, Kings and Richmond, may choose as many overseers of highways as they shall deem necessary.<sup>52</sup>

Noxious weeds.

§ 5. The electors of the several towns in the counties of Columbia, Albany, Essex, Clinton, Franklin and Seneca, may, at their annual town-meetings, or at any special town-meeting which shall be called for the purpose, make provision for destroying noxious weeds

(49) Laws of 1826, p. 47. (50) 2 R. L. 135, § 27. (51) Ib. § 28. (52) Ib. 135, § 1.

on the lands of any person residing in said towns, at the exclusive expense of such persons.<sup>53</sup> TITLE 7.

§ 6. The electors of the town of Kingston, in the county of Ulster, shall annually, at their annual town-meetings, choose some suitable person, being a freeholder, and inhabitant of said town, to be the overseer of the Kingston bridge, pursuant to the act entitled "An act supplementary to an act entitled 'An act authorising the supervisors of the county of Ulster to raise a sum of money for the purposes therein mentioned,' passed April 3d, 1816, and for other purposes," passed January 21st, 1820.<sup>54</sup> Overseer of Kingston bridge.

§ 7. The electors of the several towns in the counties of Greene, Delaware, Lewis, Oneida, Chenango, Herkimer and Tioga, may, at their annual town-meetings, or at any special town-meeting which may be called for the purpose, make such provisions and allow such rewards for the destruction of wolves, panthers and wild cats, in their respective towns, as they may deem necessary, not exceeding ten dollars for each full grown wolf, five dollars for each wolf-whelp or panther, and two dollars for each wild cat.<sup>55</sup> Rewards for destruction of noxious animals, in certain counties.

§ 8. No person shall be entitled to such reward, unless he be an inhabitant of the town by which the same is granted; and all persons claiming such rewards for the destruction of wolves or panthers, shall produce the same evidence as is required in the eighteenth Title of the twentieth Chapter of this act. Persons claiming such rewards for the destruction of wild cats, shall produce such evidence as may be required by the supervisor of the town.<sup>55</sup>

§ 9. The electors of the town of Fort-Ann, in the county of Washington, at their annual town-meetings, may cause a sum of money to be assessed on the freeholders and inhabitants of said town, not exceeding fifteen dollars for the destruction of every grown wolf, and a sum not exceeding seven dollars and fifty cents for every wolf's whelp which shall be killed in said town, in addition to the sum allowed by law; which shall be raised, levied and collected in the same manner as other expenses of said town. To entitle any person to such town bounty, the same proof shall be made, and certificate obtained in the same manner as is required in the eighteenth Title of the twentieth Chapter of this act.<sup>56</sup> Ib. in Fort-Ann, Washington county.

§ 10. The electors of the town of Dresden, in the county of Washington, may raise, at their annual town-meetings, a bounty by tax, on all the taxable inhabitants of said town, for the destruction of wolves; but not less than five, nor more than fifteen dollars shall be paid for each wolf destroyed.<sup>57</sup> Ib. in Dresden, Washington county.

(53) 2 R. L. 135, § 26. (54) Laws of 1820, p. 9, § 8. (55) Laws of 1823, p. 207, § 3 (56) Laws of 1826, p. 147. (57) Laws of 1827, p. 4.

## TITLE 7.

Trustees of  
gospel and  
school lots.

§ 11. The electors of each town in this state, having lands assigned to it for the support of the gospel and schools, or for the support of either, shall, at their annual town-meetings, elect three persons, being electors of such town, as trustees to take charge of such lands.<sup>58</sup>

Trustees of  
La Fayette.

§ 12. The electors of the town of La Fayette, at their annual town-meetings, may elect by ballot three freeholders of said town for trustees, who shall take the charge of that portion of the school fund which was apportioned to said town of La Fayette in the division of said fund between Pompey and La Fayette, and which accrued from the sale of the gospel and school lots in the old town of Pompey; and said trustees shall be a body politic and corporate, by the name and style of "The Trustees of the town of La Fayette," and shall have a common seal, and by the name and style aforesaid may sue and be sued in any court of law or equity, for any cause or matter relating to the said funds and the proceeds thereof.<sup>59</sup>

11.

§ 13. The said trustees of the town of La Fayette, and their successors in office, may proceed from time to time to collect the monies so apportioned to said town of La Fayette, whether due by bonds, mortgages, notes or otherwise, and may re-loan the same at lawful interest, to be secured by bond and mortgage on lands of double the value of the sums so loaned beyond the improvements, and to be free of incumbrances; but nothing herein contained shall authorise the collection of monies due on any bond, mortgage or otherwise, sooner than by the terms of the subsisting contracts is already provided.<sup>59</sup>

11.

§ 14. It shall be the duty of said trustees to account for and pay over all monies which shall from time to time come into their hands as such trustees, and to deliver to their successors, all bonds, mortgages, and other securities relating to their trust, in the same manner and under the same penalties as are provided in the fourth Title of the fifteenth Chapter of this act.<sup>59</sup>

Jamaica,  
Queens  
county.

§ 15. The electors of the town of Jamaica, in the county of Queens, shall annually, by vote, at their annual town-meeting, direct the purposes to which the interest or income of the monies received from the sale of certain common lands belonging to said town, and sold pursuant to the act, entitled "An act to authorise William Ludlum, Isaac Lefferts and James Denton, to sell and convey certain common lands belonging to the town of Jamaica, in Queens county," and passed the 24th of March, 1815, shall be applied.<sup>60</sup>

Measurers in  
Kings,  
Queens, and  
Richmond.

§ 16. The electors of the several towns in the counties of Kings, Queens and Richmond, shall annually, at their annual town-meetings, elect as many measurers as they may deem necessary, for the

(58) See Title 4, Chap. XV. of this part. (59) Laws of 1827, p. 349. (60) Laws of 1815, p. 105.

purpose of measuring ashes, marle, manure, grain, and other articles usually sold by the bushel or load; and they may divide their several towns into as many districts as they may think proper, and assign a measurer to each district.<sup>61</sup> TITLE 7.

§ 17. The electors of the several towns of the counties of Essex and Clinton, at their annual town-meetings, may elect as many measurers as they may deem necessary, for the purpose of measuring charcoal; and they may divide their several towns into as many districts as they may deem proper, and assign a measurer to each district.<sup>62</sup> Measurers of Essex and Clinton.

§ 18. It shall be lawful for the freeholders and inhabitants of the town of Oysterbay, in the county of Queens, from time to time, at their annual town-meeting, and not at any other town-meeting, to determine whether they will lease, or otherwise regulate their common lands, beaches and marshes, of said town, or any part or parcel thereof, for any term not exceeding one year at any one time.<sup>63</sup> Oysterbay, Queens county.

§ 19. If they shall determine to lease all or any part of their common lands, beaches or marshes, by a majority of votes so given at such town-meeting, then they shall elect two of the freeholders of said town, who, with the supervisor thereof, shall lease the said common lands, beaches and marshes, and cause the determination of the town-meeting to be carried into full effect: but no part of the said common lands, beaches or marshes, shall be leased as aforesaid to any person or persons, not being a freeholder or inhabitant of the said town of Oysterbay.<sup>63</sup>

§ 20. The rents to be made payable for such premises, shall be made payable to the supervisor of the said town of Oysterbay, and his successor in office; and if default be made in the payment thereof, the said supervisor, or his successor in office, shall have power in his name of office, to sue for and recover the same.<sup>63</sup>

§ 21. Within thirty days after receiving any money so paid or recovered, the supervisor receiving the same shall pay over one half thereof to the overseers of the poor of said town, to be applied to the support of the poor of the town, and the remaining half thereof to the commissioners of common schools of the said town, to be applied for the benefit of common schools of the said town, in like proportion as the money derived from the common school fund of this state is applied.<sup>63</sup>

(61) Laws of 1821, p. 26 § 1. (62) Laws of 1822, p. 142. (63) Laws of 1822, p. 72.

## TITLE I.

## CHAP. XII.

**Of the Powers, Duties and Privileges of Counties,  
and of certain County Officers.**

TITLE 1.—Of counties as bodies corporate.

TITLE 2.—Of certain duties of county officers, and of various matters connected therewith.

TITLE 3.—Of legal proceedings in favor of, and against counties.

TITLE 4.—Miscellaneous and special provisions.

## TITLE I.

## OF COUNTIES AS BODIES CORPORATE.

ART. 1.—Of the powers and rights of counties as bodies corporate.

ART. 2.—Of the effects of a division of a county, on its corporate rights and liabilities.

## ARTICLE FIRST.

*Of the Powers and Rights of Counties as Bodies Corporate.*

SEC. 1. General powers of a county as a body corporate.

2. Limitation of its corporate powers.

3. Proceedings by or against county, to be in name of supervisors ; but conveyances made in any manner for the benefit of county, good.

4. Powers of county as a body politic, to be exercised by board of supervisors, or in pursuance of a resolution by them adopted.

General powers.

SECTION 1. Each county, as a body corporate, has capacity,

1. To sue and be sued in the manner prescribed by law :

2. To purchase and hold lands within its own limits, and for the use of its inhabitants ; subject to the power of the legislature over such limits :

3. To make such contracts, and to purchase and hold such personal property, as may be necessary to the exercise of its corporate or administrative powers : And,

4. To make such orders for the disposition, regulation, or use of its corporate property, as may be deemed conducive to the interests of its inhabitants.

Limitation.

§ 2. No county shall possess or exercise any corporate powers, except such as are enumerated in this Chapter ; or shall be specially given by law ; or shall be necessary to the exercise of the powers, so enumerated or given.

In what name to act.

§ 3. All acts and proceedings by or against a county in its corporate capacity, shall be in the name of the board of supervisors of such county ; but every conveyance of lands within the limits of such county, made in any manner, for the use or benefit of its inhabitants, shall have the same effect as if made to the board of supervisors.

Powers how exercised.

§ 4. The powers of a county as a body politic, can only be exercised by the board of supervisors thereof, or in pursuance of a resolution by them adopted.



ARTICLE SECOND.

ART. 2.

*Of the Effects of a Division of a County, on its Corporate Rights and Liabilities.*

- SEC. 5. Each county to hold such part of the county lands as shall fall within its limits.
- 6. Personal property of county to be apportioned, and how.
- 7. Debts to be apportioned, and how.

§ 5. When a county seised of lands shall be divided into two or more counties, or shall be altered in its limits, by the annexing of a part of its territory, to another county or counties, each county shall become seised to its own use, of such part of said lands as shall be included within its limits, as settled by such division or alteration.

§ 6. When a county possessed of, or entitled to, money, rights and credits, or other personal property, is so divided or altered, such property shall be apportioned between the counties interested therein, by the supervisors and county treasurers thereof, as to them or a majority of them, shall appear to be just and equitable. They shall meet for that purpose, at such time as shall be prescribed by the law making such division or alteration.

§ 7. Debts owing by a county so divided or altered, shall be apportioned in the manner prescribed in the preceding section; and each county shall thereafter be charged therewith, according to such apportionment.

**TITLE II.**

**OF CERTAIN DUTIES OF COUNTY OFFICERS, AND OF VARIOUS MATTERS CONNECTED THEREWITH.**

- ART. 1.—Of the board of supervisors.
- ART. 2.—Of the county treasurer.
- ART. 3.—Of loan officers and commissioners of loans.
- ART. 4.—Of the clerks of counties.
- ART. 5.—Of sheriffs and coroners.
- ART. 6.—Of surrogates.
- ART. 7.—Of district attorneys.

ARTICLE FIRST.

*Of the Board of Supervisors.*

- SEC. 1. Board of supervisors to meet annually, and where. May also hold special meetings.
- 2. Place of annual meeting.
- 3. Time of annual meetings.
- 4. Powers of board.
- 5. Majority of supervisors a quorum, and questions to be decided by a majority present.
- 6. Meetings to be public.
- 7. Chairman to be appointed at each annual meeting.
- 8. Chairman to have power to administer oaths.
- 9. Clerk to be appointed, and his duties.
- 10. His compensation.
- 11. Books, &c. of board, to be deposited with clerk, and to be open to examination.
- 12. Clerk to designate the amount allowed upon accounts, &c.
- 13. Supervisors to cause court-houses and jails to be repaired.

TITLE 2. Sec. 14. To cause solitary cells to be prepared for convicts.

15. Compensation of members of board.

16. Penalty for neglect of duty.

17. Mayor, recorder and aldermen of New-York, to be supervisors of that county.

Annual meet-  
ing.

§ 1. The supervisors of the several cities and towns in each of the counties of this state, shall meet annually in their respective counties, for the despatch of business as a board of supervisors. They may also hold special meetings, at such times and places as they may find convenient; and shall have power to adjourn from time to time as they may deem necessary.<sup>1</sup>

Place of annual meeting.

§ 2. In the counties of Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauque, Chenango, Cortland, Delaware, Dutchess, Essex, Genesee, Herkimer, Jefferson, Lewis, Madison, Onondaga, Schenectady, St. Lawrence, Steuben, Tompkins, Ulster, Wayne and Westchester, the boards of supervisors shall hold their annual meetings, at the places provided by law, for the meeting of the board of canvassers of the votes given at the annual election. In all the other counties of the state, the board shall meet at the court-house in each county, if there be but one; at each of said court-houses alternately, if there be two; and if there be no court-house in the county, then at the place where the last court of common pleas shall, or ought to, have been held.<sup>1</sup>

Time of annual meeting.

§ 3. The annual meetings of the boards of supervisors shall be held at the following times:

1. In the county of Kings on the first Tuesday of August, and in the county of Livingston on the second Monday in November, in each year:<sup>2</sup>

2. In the counties of Oneida and Washington on the third Tuesday of November in each year:<sup>3</sup>

3. In the counties of Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauque, Chenango, Cortland, Delaware, Dutchess, Essex, Franklin, Genesee, Greene, Herkimer, Jefferson, Lewis, Montgomery, Onondaga, Orange, Sullivan, Schenectady, St. Lawrence, Steuben, Tioga, Tompkins, Ulster, Wayne and Westchester, on the Tuesday next after the general election in each year:<sup>4</sup>

4. In the counties of Madison, Orleans, Otsego and Saratoga, on the Monday next after the general election in each year:<sup>5</sup>

5. And in every other county in this state, on the first Tuesday of October in each year.<sup>6</sup>

Powers of the board.

§ 4. The board of supervisors of each county in this state, shall have power at their annual meetings, or at any other meeting,

(1) 2 R. L. 137, § 1; Laws of 1823, p. 397, § 19, 398, § 20; 1825, p. 330, § 1; 1826, p. 94, 135, § 4. (2) Laws of 1824, p. 17, § 3; Act of the 15th of March, 1823, Chapter 72. (3) Laws of 1826, p. 5. (4) Laws of 1825, p. 330; 1826, p. 94, 135; 1827, p. 288; Act of March 28th, 1823, Chapter 132. (5) Laws of 1825, p. 330; 1826, p. 25; 1827, p. 139; Act of March 20th, 1823, Chapter 91. (6) 2 R. L. 137, § 1; Laws of 1823, p. 397, § 19, 398, § 20; 1825, p. 330, § 1; 1826, p. 94, 135.

1. To make such orders concerning the corporate property of the County, as they may deem expedient :

2. To examine, settle, and allow all accounts chargeable against such county ; and to direct the raising of such sums as may be necessary to defray the same :

3. To audit the accounts of town officers and other persons, against their respective towns ; and to direct the raising of such sums as may be necessary to defray the same : And,

4. To perform all other duties which may be enjoined on them by any law of this state.<sup>7</sup>

§ 5. A majority of the supervisors of any county shall constitute a quorum for the transaction of business ; and all questions which shall arise at their meetings, shall be determined by the votes of the majority of the supervisors present.<sup>8</sup> Majority to decide.

§ 6. The boards of supervisors shall sit with open doors, and all persons may attend their meetings.<sup>8</sup> Meetings public.

§ 7. They shall at each annual meeting, choose one of their number as chairman, who shall preside at such meeting, and in all other meetings held during the year. In case of his absence at any meeting, the members present, shall choose one of their number as a temporary chairman.<sup>9</sup> Chairman.

§ 8. Every chairman shall have power to administer an oath to any person, concerning any matter submitted to the board, or connected with their powers or duties.<sup>9</sup> May administer: oath.

§ 9. Each board of supervisors shall, as often as may be necessary, appoint some proper person to be their clerk, who shall hold his office during their pleasure, and whose general duty it shall be, Clerk: to be appointed.

1. To record in a book to be provided for the purpose, all the proceedings of the board :

2. To make regular entries of all their resolutions or decisions, on all questions concerning the raising or payment of monies :

3. To record the vote of each supervisor on any question submitted to the board, if required by any member present : and,

4. To preserve and file all accounts acted upon by the board.<sup>10</sup>

§ 10. The clerk shall receive a reasonable compensation for his services, to be fixed by the board of supervisors, and to be paid by the county.<sup>10</sup> His compensation.

§ 11. The books, records and accounts of the boards of supervisors, shall be deposited with their clerk, and shall be open, without reward, to the examination of all persons.<sup>10</sup> Books, &c.

(7) 2 R. L. 137, § 2 (8) Ib. § 7. (9) Laws of 1825. p. 397, § 1 (10) 2 R. L. 138, § 4 ; Ib. 140, § 9 ; Laws of 1820, p. 223.

§ 12. It shall be the duty of the clerk to designate upon every account upon which any sum shall be wanted and allowed by the board, the amount so wanted and allowed, and the charges for which the same was allowed, and he shall also deliver to any person who may demand the same the amount so allowed on file in his office, on request, together with a receipt therefor, on every folio of one hundred and twenty-eight or less, and on the last folio of such book.

§ 13. It shall be the duty of the several boards of supervisors, as they shall be necessary, to cause the court-house and jail of their respective counties, to be duly repaired, at the expense of such counties, but the sums expended in such repairs shall not exceed five hundred dollars in any one year.

§ 14. They shall also cause to be prepared within the jails of their respective counties, or elsewhere, at the expense of such counties, so many solitary cells for the reception of convicts who may be sentenced to punishment therein, as the court of common pleas of the county may direct.<sup>11</sup>

§ 15. Each member of the board of supervisors shall be allowed a compensation, for his services and expenses in attending the meetings of the board, at the rate of two dollars per day.<sup>12</sup>

§ 16. If any supervisor shall refuse or neglect to perform any of the duties which are or shall be required of him by law, as a member of the board of supervisors, he shall, for every such offence, forfeit the sum of two hundred and fifty dollars.<sup>12</sup>

§ 17. The mayor, recorder and aldermen of the city of New-York, shall be the supervisors of the city and county of New-York; and all the provisions of this Article shall be construed to extend to them respectively, except where special provisions inconsistent therewith, are or shall be made by law, in relation to the city and county of New-York.<sup>13</sup>

## ARTICLE SECOND.

### *Of the County Treasurer.*

§ 18. County treasurers to give bonds.

19. Bond to be filed in county clerk's office.

20. County treasurer to receive and pay out monies of county.

21. To keep account of receipts and expenditures.

22. To transmit annually to comptroller, an account of monies received for public property belonging to the state, and to pay same.

23. To exhibit his books and accounts to supervisors.

24. To deliver over books, &c. to successor; his executors, &c. to do the same.

25. Penalty for refusing to make such delivery.

26. To retain a commission of one per cent. upon monies received and paid by him.

27. When condition of his bond forfeited, supervisors to have it put in suit.

(11) Laws of 1826, p. 345, § 2. (12) 2 R. L. 140, § 9, 10, & 11. (13) 2 R. L. 308, § 130; Laws of 1823, p. 388, § 20.

SEC. 28. Monies recovered in such action to be applied to use of county ; if they belong to the state, to be paid to the state treasurer. ART. 2.

29. Chamberlain of New-York, county treasurer of that county.

§ 18. Every person appointed to the office of county treasurer, <sup>Bond.</sup> within ten days after his appointment, and before he enters on the duties of his office, shall give a bond to the supervisors of the county, with two or more sufficient sureties, to be approved of by the board of supervisors, and in such sum as they shall direct, conditioned that such person shall faithfully execute the duties of his office, and shall pay according to law, all monies which shall come to his hands as treasurer, and render a just and true account thereof, to the board of supervisors, or to the comptroller of this state, when thereunto required.<sup>14</sup>

§ 19. Such bond, with the approbation of the board of supervisors, <sup>Ib.</sup> endorsed thereon by their clerk, shall be filed in the office of the county clerk.<sup>14</sup>

§ 20. It shall be the duty of the county treasurer, to receive all <sup>Duties of treasurer.</sup> monies belonging to the county, from whatever source they may be derived ; and all monies belonging to this state, which by law are directed to be paid to him ; and to pay and apply such monies in the manner required by law.<sup>14</sup>

§ 21. The county treasurer shall keep a just and true account of <sup>Accounts.</sup> the receipts and expenditures of all monies which shall come to his hands, by virtue of his office, in a book or books to be kept for that purpose ; which books shall be provided at the expense of the county.<sup>15</sup>

§ 22. The county treasurer shall, on or before the first day of <sup>Ib. with comptroller.</sup> March, in each year, transmit to the comptroller of this state, a statement of all monies received by him during the preceding year, for penalties, belonging to the people of this state ; and it shall be his duty, at the same time, to pay to the treasurer of this state the amount of such penalties, after deducting his compensation, in the same manner as state taxes are directed to be paid.

§ 23. At the annual meeting of the board of supervisors, or at <sup>Ib. to super- visors.</sup> such other time as they shall direct, the county treasurer shall exhibit to them, all his books and accounts, and all vouchers relating to the same, to be audited and allowed.<sup>15</sup>

§ 24. Upon the death, resignation, or removal from office, of any <sup>Books, &c. to be delivered, and monies paid to successor.</sup> county treasurer, all the books and papers belonging to his office, and all monies in his hands by virtue of his office, shall be delivered to his successor in office, upon the oath of the preceding county treasurer, or in case of his death, upon the oath of his executors or administrators.<sup>16</sup>

(14) 2 R. L. 139, § 5. (15) Ib. § 4. (16) Ib. § 6.

**TITLE 2.**  
 Penalty for neglect. § 25. If any such preceding county treasurer, or in case of his death, if his executors or administrators shall refuse or neglect to deliver such books, papers and monies, upon oath, when lawfully demanded, every such person shall forfeit, for the use of the county, the sum of twelve hundred and fifty dollars.<sup>17</sup>

Commission. § 26. The county treasurer shall be entitled to retain a commission of one per cent. on every dollar which he shall receive and pay; to wit, one half of such commission for receiving, and the other half for paying.<sup>18</sup>

Bond when to be sued. § 27. Whenever the condition of the county treasurer's bond shall be forfeited, to the knowledge of the board of supervisors of the county, and whenever such board shall be required so to do by the comptroller, they shall cause such bond to be put in suit.<sup>19</sup>

Disposition of monies recovered. § 28. All monies recovered in any such action, shall be applied by the board of supervisors to the use of the county, unless the same or some part thereof, shall have been received by the county treasurer for the use of the state; in which case, such monies, or such part thereof as shall have been so received, shall be paid by the supervisors to the treasurer of the state.<sup>19</sup>

New-York. § 29. The chamberlain of the city and county of New-York shall be considered the county treasurer thereof; and all the provisions of this Article shall be construed to apply to him, except where special provisions inconsistent therewith, are or shall be made by law, in relation to the city and county of New-York.<sup>20</sup>

### ARTICLE THIRD.

#### *Of Loan Officers and Commissioners of Loans.*

- SEC. 30. Commissioners of loans and loan officers to give bonds.  
 31 & 32. Sufficiency of the sureties how and by whom to be determined.  
 33. Supervisors may require additional security.  
 34. Proceedings in case additional security be not given.  
 35. Loan officers to receive all monies payable on mortgages under their charge and keep an account.  
 36. May require additional security for monies loaned by them.  
 37. In case any mortgagor shall refuse such additional security to supply any defect in original mortgage, commissioners may file a bill in chancery.  
 38. When monies are paid upon any loan, supervisors may inhibit commissioners from re-lending.  
 39. If not ordered to contrary, commissioners to re-loan monies: rate of interest.  
 40. Commissioners to exhibit annually to supervisors, mortgages taken by them, and their books of account, &c.  
 41. Supervisors to examine them, and send certificate of examination to comptroller.  
 42. If it appear that they have not made loans as required by law, comptroller to put bonds in suit, and to report commissioners to governor.  
 43. Notice of sale of mortgaged premises by commissioners, how given, &c.  
 44. When county loaning money is divided, who to sell mortgaged premises, and with notice to be given.  
 45. Provisions of the fifth Title of the eighth Chapter of this act, from section 20 to 24 inclusive, to extend to all cases of foreclosure by commissioners.

(17) 2 R. L. 139, § 6. (18) Ib. § 9. (19) Ib. § 5. (20) Ib. 369, § 151; Laws of 1856, p. 401, § 28.

- Sec. 46. When mortgaged premises are bid in by loan officers, for less than amount due, comptroller to credit them with amount due at time of sale. ART. 2.
47. When commissioners or loan officers cannot loan monies in their hands, not to be charged with interest thereon.
48. When county receiving loan under act of 1792 is divided, and loss is sustained by default of loan officers, how such loss raised.
49. If such county be subjected to loss by defect of title, &c. of mortgaged premises, how loss raised.
50. Loan officers to deposit their books in clerk's office of counties.
51. Meaning of term "loan officers."

§ 30. Every person hereafter appointed to the office of loan officer <sup>Bond.</sup> or commissioner of loans, in any county in this state, shall, before he enters on the duties of his office, give a bond to the people of this state, with two or more sufficient sureties, in a sum equal to the amount of the mortgages then under the charge of the loan officers, or commissioners of loans, as the case may be, of such county, conditioned that such loan officer or commissioner shall well and truly perform the duties of his office pursuant to law, and shall demean himself therein, without favor, malice or partiality.

§ 31. The board of supervisors of the county, together with one <sup>Sufficiency of sureties.</sup> or more of the judges of the county, shall be the judges of the sufficiency of the sureties offered by a loan officer; and the bond of every such loan officer and his sureties, with the approbation of a majority of the supervisors and of such judge or judges, endorsed thereon, shall be filed in the office of the clerk of the county.

§ 32. The clerk of the county, and any two judges of the county <sup>lb.</sup> courts, shall, except in the county of New-York, be judges of the sufficiency of the sureties offered by a commissioner of loans; and in the city and county of New-York, the mayor and recorder shall perform that duty. The bond of every commissioner, with the approbation of the proper officers endorsed thereon, shall be transmitted to the comptroller, to be filed in his office.

§ 33. Whenever the supervisors of any county in this state, shall apprehend that any loan officer or commissioner of loans, or their or either of their sureties, are likely to fail, it shall be their duty to require such loan officer or commissioner, to give such additional <sup>Additional security.</sup> security as they may deem reasonable and satisfactory.<sup>21</sup>

§ 34. If any such loan officer shall neglect or refuse for the space <sup>lb.</sup> of ten days, after the receipt of notice, to give such security as required, the supervisors may appoint another loan officer in his stead; and if a commissioner of loans shall neglect or refuse, for the space above specified, to give such security as may be required, the said supervisors shall report such suspicion, as to the security, and the refusal of the commissioner of loans to comply with their requisition, to the governor, in order to his removal.<sup>21</sup>

(21) Laws of 1819, p. 87, § 5.

## TITLE 2

Loan officers  
to receive  
mortgage  
monies.

§ 35. It shall be the duty of the loan officers and commissioners of loans, in the several counties, to receive from time to time, all monies which shall become payable for principal and interest, or for either of them, upon the mortgages under their charge, and to keep an account of all monies so received by them.

May require  
additional  
security.

§ 36. Whenever the loan officers or commissioners of loans, shall consider it necessary to require additional security, for the purpose of securing the payment of monies loaned by them or their predecessors in office, either on account of the reduction in value of the premises mortgaged, or on account of any substantial defect in the description of such premises in the original mortgage, they shall have power, and it shall be their duty, to demand such additional security as they shall think requisite, from the mortgagor, his representatives or assigns, and to take the same in like manner as original mortgages are directed to be taken by them; and such additional securities shall be proceeded upon, in case of default in payment, in the same manner as original mortgages.<sup>22</sup>

Proceedings,  
if security be  
refused.

§ 37. In case any mortgagor, his heirs or devisees, who shall be in the actual possession of the mortgaged premises, shall neglect or refuse to give such additional security as may be required by such loan officers or commissioners, for the purpose of supplying any substantial defect in the description of the mortgaged premises; the loan officers or commissioners of loans, may file a bill in the court of chancery, to compel such mortgagor, his heirs or devisees, to supply such defects, in such manner as the chancellor shall deem equitable; and in every such case, the chancellor shall have power to decree costs against the defendant, if, in his opinion, costs ought to be decreed.<sup>22</sup>

May be in-  
hibited from re-  
loaning.

§ 38. Whenever any monies shall be paid to any loan officers or commissioners of loans, for the principal of any loan under their charge, the board of supervisors of the county shall have power, by resolution, to inhibit the re-loaning of such monies; and in such case, it shall be the duty of the loan officers or commissioners, to pay to the treasurer of this state, the monies so received, within thirty days after the receipt thereof, or if such resolution be made subsequent to such receipt, then within thirty days after notice thereof.<sup>23</sup>

When to re-  
loan.

§ 39. In case no order shall be made to the contrary by the board of supervisors, the loan officers and commissioners shall re-loan all monies received by them, upon the mortgages under their charge, in the manner prescribed in the several acts under which they shall have been appointed, at an interest of seven per cent.<sup>24</sup>

(22) Laws of 1822, p. 265, § 1 & 2. (23) Laws of 1819, p. 37 & 38, § 3; 1820, p. 26, § 7; 1821, p. 17; 1822, p. 265, § 3; 1823, p. 205, § 1. (24) Laws of 1815, p. 61, § 2; 1816, p. 170, 2. §



§ 40. It shall be the duty of the loan officers and commissioners of loans, to exhibit to the board of supervisors of their respective counties, at each annual meeting of the board, all the mortgages taken by them or their predecessors in office, for monies loaned pursuant to law, together with their books of accounts, minutes and vouchers; in order that the board of supervisors may ascertain whether the monies committed to the charge of such loan officers and commissioners, have been loaned and continued to be kept as loans, according to law.<sup>25</sup>

ART. 3.

To exhibit accounts to supervisors.

§ 41. It shall be the duty of the board of supervisors to examine such mortgages, accounts and minutes, so to be annually exhibited to them, and thereupon forthwith to certify under their hands, the state in which they shall find the monies under charge of such loan officers and commissioners, and to transmit their certificate by mail to the comptroller of this state.<sup>25</sup>

Duty of board of supervisors.

§ 42. If it shall appear to the comptroller, from any such certificate, that the whole of the monies under the charge of the loan officers and commissioners have not been loaned as required by law; it shall be his duty to order suits to be commenced on the bonds of the loan officers or commissioners so found in default. And it shall also be his duty, to report such commissioners of loans, or any or either of them, being in default, to the governor, in order that they may be removed, and others appointed in their stead.<sup>25</sup>

Duty of comptroller, when these officers are in default.

§ 43. In every case of a mortgage sale, by loan officers or commissioners of loans, it shall be their duty, in addition to the notice directed by law to be given of such sale, in the several acts under which they are appointed, to cause a copy of their advertisement to be published, for the space of eight weeks successively, immediately preceding the day of sale, at least once in each week, in one of the newspapers printed and published in the county in which the mortgaged premises are situate; or if no newspaper is printed and published in such county, then in the county nearest thereto, in which a newspaper is printed and published: and the expense of such publication shall be paid in like manner as the other expenses of advertising loan office sales, are by law directed and required to be paid.<sup>25</sup>

Notice of sale of mortgaged premises.

§ 44. Whenever any county, in which loans may have been made pursuant to either of the acts authorising loans of monies to the citizens of this state, shall have been divided since the passing of the act under which such loans were made, or shall hereafter be divided, and default shall be made in the payment of principal or interest of any such loan, the loan officers or commissioners under whose care any mortgage given for any such loan may be, shall have power to proceed to a sale of the mortgaged premises, pursuant to the provisions of the act under which the mortgage shall have been given, whether the mortgaged

Ib. when county has been divided.

**TITLE 2** premises shall be situated within the county of such loan officers or commissioners, or not. And in such cases, all notices required to be affixed or published, shall be affixed and published in the county in which the mortgaged lands shall lie; and the sale shall be made in that county.

Certain provisions of Chap. 2 extended to this Article.

§ 45. The powers conferred and the duties imposed on the attorney-general, by the fourth, fifth, sixth, seventh and eighth sections of Title sixth of the ninth Chapter of this act, shall extend to loan officers and commissioners of loans, in all cases of foreclosure under their direction, except that the expenses of any appraisement by loan officers shall be charged to the county; and all purchases of mortgaged premises made by the loan officers, at any mortgage sale, had under their direction, shall be in the name of the board of supervisors, and for the use and benefit of their respective counties; and all purchases of mortgaged premises, made by the commissioners of loans, at any mortgage sale had under their direction, shall be for the use and benefit of the state.<sup>25</sup>

See ante p. 372.

Amount to be credited, when premises are bid in for less than amount due.

§ 46. Whenever any mortgaged premises are bid in by loan officers or commissioners of loans, for an amount less than the mortgage money, interest and costs due, it shall be the duty of the comptroller, upon satisfactory proof being made to him, that nothing more can be collected upon any covenant in the mortgage, or upon any bond or other security for the mortgage debt, and that the deficiency has not arisen from any negligence or fault of the loan officers or commissioners, to credit them with the full amount due on the mortgage at the time of sale, upon their delivering to him the original mortgage, and all other securities for the mortgage debt.<sup>27</sup>

When interest is not to be charged.

§ 47. Whenever any monies hereafter to be received by any loan officers or commissioners of loans, shall remain in their hands unloaned, without any fault or negligence on their part, and unemployed, it shall be the duty of the comptroller, on satisfactory proof thereof being made to him, so to state the accounts of such loan officers or commissioners, that they be not charged with interest on such monies, whilst so remaining unloaned and unemployed.

Loan when county has been divided.

§ 48. Whenever any county to which loans may have been made, pursuant to the act of the 14th of March, 1792, authorising loans of monies to the citizens of this state, shall be divided, and any loss shall be sustained in consequence of the default of the loan officers appointed or to be appointed pursuant to said act for any such county, the amount of such loss shall be raised, levied and collected, in the several counties or territory, which originally composed the county so divided.<sup>26</sup>

(26) Laws of 1820, p. 247, § 8; 1824, p. 341, § 1 to 4. (27) 1824, ib. § 5. (28) Laws of 1820, p. 246, § 4 & 8.

§ 49. If any such county shall be subjected to any loss or deficiency, in consequence of a defect of title, or of the want of sufficient value of any premises mortgaged to any such loan officers, such loss or deficiency shall be raised, levied and collected, in the county in which the mortgaged premises may be ; and the supervisors of such county shall direct the same to be raised, at the first annual meeting that shall be held after the amount of such loss or deficiency shall be certified to them by the commissioners.<sup>29</sup>

ART. 4.  
Ib.

§ 50. It shall be the duty of the commissioners of loans and loan officers of the several counties, to deposit their books of mortgages in the clerks' offices of the respective counties for which they were appointed, there to remain at all times, except when the said commissioners and officers shall be in actual session, for the despatch of their official duties.

Books of mortgages where to be deposited.

§ 51. The term "loan officers," whenever it occurs in the foregoing sections, shall be construed to intend the loan officers appointed under the act of the 14th March, 1792, entitled "An act for loaning monies belonging to this state," and commonly called New Loan officers.

Term "loan officers" defined.

ARTICLE FOURTH.

*Of the Clerks of Counties.*

- Sec. 52. County clerk to have care of all books, &c. in his office.
- 53. To provide books for the recording of conveyances and other papers ; to file papers.
- 54. Where clerks' offices to be kept.
- 55. Clerk of Suffolk may establish two offices in that county, and appoint an assistant for one of them.
- 56. Clerks to appoint deputies. Appointment to be recorded.
- 57. Deputies to take oath of office.
- 58. When deputy to perform all his duties, except that of deciding on sufficiency of sureties.
- 59. When office vacant, deputy to perform duties, and receive pay, &c. of clerk.
- 60. When a commission or supersedeas is received by clerk, he is to give notice to persons named therein.
- 61. Clerk to give notice to governor of any officer in his county required to give or renew bond, neglecting so to do.
- 62. Clerk to report to governor annually all officers in his county that have given bond, &c. and those who have not, and all vacancies in offices.
- 63. Pay of clerk for services mentioned in three preceding sections, and for registering mortgages to state, paid out of treasury.
- 64. Clerk to report annually to comptroller, names of all religious societies.
- 65. Certified copies of papers in clerk's office, like evidence as originals.
- 66. Where county clerk is authorised to judge of the competency of sureties, that duty to be performed, when he is absent or his office is vacant, by two county judges.

§ 52. The clerk of each county in this state shall have the custody of all the books, records, deeds, parchments, maps and papers, now deposited, or that may hereafter be deposited or kept in his office ; and it shall be his duty, from time to time, carefully to attend to the arrangement and preservation thereof.

General duties.

(29) Ib.

§ 53. The clerk shall, at the expense of the county, provide proper means for the recording of deeds, mortgages, or other conveyances acknowledged in writing according to law: and for the recording of all other instruments or matters required by law to be recorded in his office. He shall also receive and file all papers and documents directed to be filed therein.

§ 54. The clerk of the county of Washington shall keep his office in some convenient place, not more than one half mile from the dwelling-house now or late of Joseph Rouse, in the town of Argyle. The clerk's offices in those counties in which buildings have heretofore been erected for clerk's offices pursuant to law, shall continue to be kept in such buildings: and the clerk's offices in the other counties of this state, except the county of New-York, shall be kept within one mile of a court-house in such county, except in the counties of Westchester, Suffolk and Rockland, where the same shall be kept at such place as shall be designated by the board of supervisors of the county.<sup>29</sup>

§ 55. The clerk of the county of Suffolk may, at his discretion, from time to time, establish offices in any two convenient places therein: and for this purpose, may, by writing under his hand and seal, appoint any competent person assistant clerk of the county, to take charge of one of the offices, and perform the duties thereof during the pleasure of the clerk: which appointment shall be recorded in the office of the clerk of the county.<sup>30</sup>

§ 56. Every county clerk shall appoint some proper person deputy clerk of his county, to hold during the pleasure of the clerk: and as often as such deputy clerk shall die, resign, or be removed from office, or remove out of the county, or become incapable of executing the duties of the office, another shall be appointed in his place. Every such appointment shall be in writing under the hand and seal of the clerk, and shall be recorded in the office of the clerk of the county.<sup>31</sup>

§ 57. Every person appointed to the office of deputy clerk, shall, before he enters on the duties of his office, take the oath of office, prescribed in the constitution of this state.<sup>31</sup>

§ 58. Whenever the county clerk shall be absent from the county, or by reason of sickness, or any other cause, shall be incapable of performing the duties of his office, his deputy may perform all the duties appertaining to the office of clerk of the county, except that of deciding upon the sufficiency of sureties for any officer.<sup>31</sup>

§ 59. Whenever the office of any county clerk shall become vacant, his deputy shall perform all the duties, and be entitled to all the emoluments, and be subject to all the penalties appertaining to the of

(29) 2 R. L. 251, § 1 to 4. (31) 1 R. L. 523, § 19; 2 R. L. 149, § 17; Laws of 1894, § 2.

office of clerk of the county, until a new clerk shall be elected for such county, and duly sworn.<sup>32</sup>

ART. 4.

§ 60. Whenever any commission or supersedeas shall be received at the clerk's office of any county, it shall be the duty of the clerk forthwith, at the expense of this state, to give notice thereof to every person named in such commission or supersedeas.<sup>33</sup>

Notice to persons appointed.

§ 61. Whenever any person appointed to any office in any county in this state, who is required by law to execute a bond previous to entering on the duties of his office, or to renew such bond, shall neglect to execute or renew such bond in the manner and within the time required by law, it shall be the duty of the clerk of such county, forthwith to give notice to the governor of such neglect.<sup>34</sup>

Notice to governor as to execution of official bonds.

§ 62. The clerk of each county shall, on or before the fifteenth day of January in each year, give information to the governor of all persons appointed to offices in his county, who during the previous year shall have taken the oath of office, or given the bond required by law; and of all persons required to take such oath or give such bond, who shall have neglected so to do; and also of all vacancies in such county, in any civil office.<sup>35</sup>

To give notice to governor, annually, as to officers in his county.

§ 63. The compensation of the several county clerks, for services and expenses in performing any of the duties prescribed in the three last preceding sections, and the fees of such clerks, for registering or recording any mortgage to the people of this state, shall be audited by the comptroller, and paid out of the treasury.<sup>36</sup>

Fees for services under three last sections.

§ 64. The clerk of each county shall, on or before the first day of January in each year, report to the comptroller, the names of all the religious societies, that shall have been incorporated in his county during the preceding year.

Religious societies.

§ 65. Copies of all papers duly filed in the office of the county clerk, and transcripts from the books of records kept therein, certified by such clerk, with the seal of his office affixed, shall be evidence in all courts in like manner as if the originals were produced.

Certified copies and transcripts.

§ 66. In all cases in which a county clerk shall be authorised to judge of the competency of the sureties offered by a person appointed to office, if there be a vacancy in the office of county clerk, or he be absent, from the county, or be incapable of performing the duties of his office, it shall be lawful for any two judges of the county courts, of whom the first judge shall be one, (unless there be a vacancy in his office, or he be absent or incapable as aforesaid,) to decide upon

Who to decide on sufficiency of sureties when clerk's office vacant, &c.

(32) 1 R. L. 523, § 19; 2 R. L. 149, § 17; Laws of 1815, p. 83, § 2. Ante, p. 124, Chap. 6, Title 6, § 49. (33) 1 R. L. 459, § 4; Laws of 1815, p. 206. (34) Laws of 1820, p. 65, § 3; 1827, p. 218, § 2. (35) 1 R. L. 385, § 12. (36) Ib. 530, § 9.

TITLE 2. the competency of such sureties; and for that purpose, to administer any oath, and make any examination that may be required.<sup>87</sup>

ARTICLE FIFTH.

*Of Sheriffs and Coroners.*

SEC. 67 & 68. Sheriffs to give bonds, and the penalty of such bonds.

69. Bond to be filed in clerk's office; clerk to examine sureties as to their sufficiency.

70. Sheriff to renew security annually; extent of such renewed security.

71. Sheriffs to appoint under-sheriffs.

72. When office of sheriff vacant, under-sheriff to execute the office, &c.

73. Sheriff may appoint deputies.

74. Appointment of under or deputy sheriff to be in writing; they are to take oath; exception as to special deputies.

75. Sheriff to have custody of jail, and prisoners in same.

76. Sheriff to be paid out of the state treasury for certain services in behalf of the state.

77. Whenever a sheriff shall remain committed for 30 days, for non-payment of monies received by him, facts to be reported to the governor, to the end that he may be removed.

78. When first judge is to designate coroner to execute office of sheriff.

79. Coroner so designated to give bond.

80. If he neglect to give security, judge to designate another coroner.

81. If vacancy in office of sheriff and under-sheriff, and but one coroner in office, he to execute office of sheriff, and to give bond.

82. If all coroners refuse to give bond, first judge to appoint some suitable person to execute office.

83. Such appointment to be in writing.

84. Person so appointed to give security.

85. Subject to above provisions, coroners to execute office of sheriff whenever it shall be vacant.

86. Person executing office pursuant to either of last eight sections, subject to all duties, &c. of sheriff.

Sheriff to give bond.

§ 67. Every person hereafter elected to the office of sheriff of any county within this state, shall, within twenty days after he shall receive notice of his election, and before he shall enter upon the execution of the duties of his office, execute with sureties, who shall be freeholders, a joint and several bond to the people of this state; the condition of which bond shall be in the form and to the effect following, to wit:

Its form.

“Whereas the above bounden \_\_\_\_\_ hath been elected to the office of sheriff of \_\_\_\_\_ at the general election held therein, [or ‘at a special election held therein,’] on the \_\_\_\_\_ day of \_\_\_\_\_. Now, therefore, the condition of the above obligation is such, that if the said \_\_\_\_\_ shall well and faithfully in all things perform and execute the office of sheriff of the said county of \_\_\_\_\_ during his continuance in the said office by virtue of the said election, without fraud, deceit or oppression, then the above obligation to be void, or else to remain in full force.”<sup>88</sup>

Amount of penalty.

§ 68. The bond to be executed by the sheriff of the city and county of New-York, shall be in the penal sum of twenty thousand dollars, with two sureties: and the bond to be executed by the sheriff of every other county in this state, shall be in the penal sum of ten thousand dollars, with two or more sureties.<sup>88</sup>

§ 69. Every such bond shall be filed in the clerk's office of the county for which the sheriff executing it, shall have been elected ; and the clerk shall, at the time of filing the same, administer an oath to each of the sureties named therein, that he is a freeholder within this state, and worth, if in the city and county of New-York, the sum of twenty thousand dollars, and if in any other county, such sum as shall be proportionate to the number of sureties bound in such bond, and to the amount of the bond required in such county, over and above all debts whatsoever owing by him ; which oath shall be endorsed on the bond, and subscribed by each of the sureties in the presence of the clerk, who shall, notwithstanding, judge of and determine the competency of such sureties.<sup>39</sup>

ART. 5.  
Filing of bond; oath of sureties.

§ 70. It shall be the duty of every sheriff, within twenty days after the first Monday of January in each year, subsequent to that, in which he shall have entered on the duties of his office, to renew the security required to be given by him before entering on the duties of his office ; which renewed security shall be in the same amount, and be given in the same manner, and be subject in all respects to the same regulations, as the original security required from such sheriff.<sup>40</sup>

Sheriff to renew security annually.

§ 71. The sheriff of each county in this state, shall, as soon as may be, after he takes upon himself the execution of his office, appoint some proper person under-sheriff of the same county, to hold during the pleasure of such sheriff ; and as often as a vacancy shall occur in the office of such under-sheriff, or he become incapable of executing the same, another shall in like manner be appointed in his place.<sup>41</sup>

To appoint under-sheriff.

§ 72. Whenever a vacancy shall occur in the office of sheriff of any county, the under-sheriff of such county shall in all things execute the office of sheriff of the county, until a sheriff shall be elected or appointed, and duly qualified ; and any default or misfeasance in office of such under-sheriff in the mean time, as well as before, shall be deemed to be a breach of the condition of the bond given by the sheriff who appointed him, and also a breach of the condition of the bond executed by such under-sheriff to the sheriff by whom he was appointed.<sup>41</sup>

Powers of under-sheriff.

§ 73. Every sheriff may appoint such and so many deputies as he may think proper ; and persons may also be deputed, by any sheriff or under-sheriff, by an instrument in writing, to do particular acts.<sup>41</sup>

Deputies.

§ 74. Every appointment of an under-sheriff, or of a deputy sheriff, shall be by writing, under the hand and seal of the sheriff, and shall be filed and recorded in the office of the clerk of the county ; and every such under-sheriff or deputy sheriff shall, before he enters on the execution of the duties of his office, take the oath of office pre-

Their appointment and oath.

(39) 1 R. L. 419, § 2. (40) Laws of 1827, p. 218, § 1 and 2. (41) 1 R. L. 420, § 5 ; Laws of 1827, p. 218, § 4.

**TITLE 2.** scribed in the constitution. But this section shall not extend to any person who may be deputed by any sheriff or under-sheriff, to do a particular act only.<sup>42</sup>

**Custody of jails.**

§ 75. The sheriff of the city and county of New-York, shall have the custody of the jail in that city used for the confinement of persons committed on civil process only, and of the prisoners in the same; and the sheriff of every other city and county of this state, shall have the custody of the jails and of the prisons thereof, and the prisoners in the same. And the sheriffs respectively, may appoint keepers of such jails and prisons, for whose acts they shall severally be responsible.<sup>43</sup>

**Fees for services for the state.**

§ 76. Whenever a sheriff shall be required by any statutory provision, to perform any service in behalf of the people of this state, and for their benefit, which shall not be made chargeable by law to his county, or to some officer or other person, his account for such services shall be audited by the comptroller, and be paid out of the treasury.

**Removal for non-payment of monies.**

§ 77. Whenever the sheriff of any county, shall be committed to the custody of any other sheriff, or to the custody of any coroner or coroners, by virtue of any execution or attachment founded on the non-payment of monies received by him by virtue of his office, and shall remain so committed for the space of thirty days successively, such facts shall be represented to the governor by the officer in whose custody such sheriff may be, to the end that such sheriff may be removed from office.

**One of the coroners when to be designated.**

[See ante, p. 124, Chap. 6, Title 6, § 49.]

§ 78. Whenever a vacancy shall occur in the office of sheriff of any county, and there shall be no under-sheriff of such county then in office, or the office of such under-sheriff shall become vacant, or he become incapable of executing the same, before another sheriff of the same county shall be elected or appointed, and qualified, and there shall be more than one coroner of such county then in office, it shall be the duty of the first judge of the county, forthwith to designate one of such coroners to execute the office of sheriff of the same county, until a sheriff thereof shall be elected or appointed, and qualified. Such designation shall be by instrument in writing, and shall be signed by the judge, and filed in the office of the clerk of the county, who shall immediately give notice thereof to the coroner.

**His duty and powers.**

§ 79. The coroner so designated, within six days after receiving such notice, shall execute, with sureties, a joint and several bond to the people of this state, which shall be in the same amount, and with the same number of sureties, and be approved of in the same man-



ner, and be subject in all respects to the same regulations, as the security required by law from the sheriff of such county. And after the execution of such bond, the coroner so designated shall execute the office of sheriff of the same county, until a sheriff shall be duly elected or appointed, and qualified.

ART. 5.

§ 80. If the coroner so designated shall not, within the time above specified, give such security as is above required, it shall be the duty of the first judge to designate, in like manner, another coroner of the county, to assume the office of sheriff; and in case it shall be necessary so to do, the first judge shall proceed to make successive designations, until all the coroners of the county shall have been designated to assume such office. And all the provisions contained in the two last sections, shall apply to every such designation, and to the coroner named therein.

When second or other designations to be made.

§ 81. Whenever any such vacancies shall occur in the offices both of sheriff and under-sheriff of any county, if there shall be but one coroner of such county then in office, such coroner shall be entitled to execute the office of sheriff of the same county, until a sheriff shall be duly elected or appointed, and qualified; but before he enters on the duties of such office, and within ten days after the happening of the vacancy in the office of the under-sheriff, he shall execute, with sureties, a joint and several bond to the people of this state, in the same amount, and with the same number of sureties, as may be required by law from the sheriff of such county; and such bond shall be subject in all respects, to the same regulations as the security required from the sheriff.

Where but one coroner, his duty and powers.

§ 82. If such coroner solely in office on the happening of such vacancies, shall neglect or refuse to execute such bond within the time above specified; or if all the coroners, where there are more than one in office on the happening of such vacancies, shall successively neglect or refuse to execute such bond within the time required, it shall be the duty of the first judge of the county, in which such vacancies shall exist, to appoint some suitable person to execute the office of sheriff of the same county, until a sheriff shall be duly elected or appointed, and qualified.

When first judge to appoint.

§ 83. Such appointment shall be in writing, under the hand and seal of the first judge, and shall be filed in the office of the county clerk, who shall forthwith give notice thereof to the person so appointed.

§ 84. The person so appointed, shall, within six days after receiving notice of his appointment, and before he enters on the duties of the office, give such security as may be required by law of the sheriff of such county, and subject to the same regulations; and after such security shall have been duly given, such person shall execute the of-

Duty and power of person appointed.

TITLE 2. *Office of sheriff of the county, until a sheriff shall be duly elected or appointed, and qualified.*

Coroners to act until, &c.

§ 85. Until some coroner designated, or some person appointed by the first judge, shall have executed the security above prescribed; until a sheriff of the county shall have been duly elected or appointed, and qualified, the coroner or coroners of the county in which such vacancies shall exist, shall execute the office of sheriff of the same county.<sup>44</sup>

General provision.

§ 86. Whenever any under-sheriff, coroner, coroners, or other person, shall execute the office of sheriff, pursuant to either of the eight last sections, the person so executing such office, shall be subject to all the duties, liabilities and penalties imposed by law upon a sheriff duly elected and qualified.

#### ARTICLE SIXTH.

##### *Of Surrogates.*

Sec. 87. *Surrogates to give bond; penalty thereof.*

88. *Clerk of county to judge of sufficiency of sureties.*

Bond.

§ 87. Every person, hereafter appointed to the office of surrogate of any county, shall, within twenty days after receiving notice of such appointment, execute to the people of this state, with two or more sureties, being freeholders, a joint and several bond, conditioned for the faithful performance of his duty, and for the application and payment of all monies and effects that may come into the hands of such surrogate in the execution of his office. The bond of the surrogate of the city and county of New-York, shall be in the penal sum of ten thousand dollars; of every other surrogate in the sum of five thousand dollars.<sup>45</sup>

Penalty.

Sufficiency of sureties.

§ 88. The clerk of the county for which such surrogate shall have been appointed, shall be the judge of the sufficiency of the sureties; and in case he shall be satisfied by the oath of the sureties, or otherwise, that they are good and sufficient, he shall endorse on the bond, a certificate of his approval, and file such bond in his office, there to remain a matter of record.<sup>45</sup>

#### ARTICLE SEVENTH.

##### *Of District Attornies.*

Sec. 89. *To conduct prosecutions at oyer and terminer and general sessions.*

90. *When he fails to attend, court to appoint some person to act for him; pay of such person.*

91. *To prosecute for penalties and forfeitures exceeding 50 dollars.*

92. *To give receipts for monies received for fines, &c.*

93. *Annually to file an account of, and pay over monies received by him.*

94. *When not so accounted for and paid, suit to be instituted.*

95. *Pay of district attornies.*

(44) 1 R. L. 420, § 5; Laws of 1827, p. 218, § 4. (45) Laws of 1820, p. 65, § 2 and 3.

§ 89. It shall be the duty of every district attorney to attend the courts of oyer and terminer and jail delivery, and general sessions, to be held from time to time, in the county for which he shall have been appointed; and to conduct all prosecutions for crimes and offences cognizable in such courts.<sup>46</sup>

ART. 7.  
General duties.

§ 90. When any district attorney shall fail to attend any of the courts above specified, it shall be the duty of such court to appoint some proper person, being an attorney or counsellor at law, to transact the business of the district attorney during the sitting of the court; and the person so appointed shall be entitled to the same compensation for the services he shall perform, that the district attorney would have been entitled to, for the like services, and his account shall be audited and paid in the same manner.<sup>47</sup>

Substitute when to be appointed.

§ 91. It shall be the duty of the several district attorneys to prosecute for all penalties and forfeitures, exceeding fifty dollars, which may be incurred in their respective counties, and for which no other officer is by law, specially directed to prosecute.<sup>48</sup>

Penalties and forfeitures.

§ 92. It shall be the duty of every district attorney, whenever he shall receive any monies for fines, recognizances, forfeitures or penalties, to deliver to the officer or person paying the same, duplicate receipts, one of which shall be filed by such officer or person, in the office of the county treasurer.<sup>48</sup>

1b. Duplicate receipts.

§ 93. Every district attorney shall, on or before the first Tuesday of October in each year, file in the office of the county treasurer, an account in writing, verified by the oath of such district attorney, of all monies received by him by virtue of his office, during the preceding year; and shall at the same time pay over such monies to the county treasurer.<sup>48</sup>

Annual account.

§ 94. Whenever any district attorney shall refuse or neglect, to account for and pay over, the monies so received by him, as required by the last section, it shall be the duty of the county treasurer to cause a suit to be instituted for the recovery of such monies, for the benefit of the county, against such district attorney.<sup>48</sup>

To be sued if he neglect to account.

§ 95. The district attorney of the city and county of New-York shall receive for his services an annual salary, not less than two thousand five hundred dollars, and not exceeding three thousand five hundred dollars, to be fixed and paid by the common council of that city; and the district attorneys of all the other counties in the state, shall be paid for their services in conducting criminal prosecutions, by their respective counties, upon their accounts duly taxed by some officer authorised to tax bills of costs in the supreme court, according to the rates allowed by law.<sup>49</sup>

Compensation.

(46) 1 R. L. 414, § 1. (47) Laws of 1824, p. 314, § 1. (48) Laws of 1818, p. 307, § 7; 1820, p. 193, § 1, 2 and 3. (49) 1818, p. 307, § 6; 1821, p. 91.

TITLE:

TITLE III.

Contents

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  4. In suits by or against counties, costs recoverable as between individuals. In suits against a county or county officer, a county charge.

How to be served

§ 1. Whenever any controversy or cause of action, shall exist between any of the counties of this state, or between any such county and an individual or individuals, such proceedings shall be had at law or in equity, for the purpose of trying and finally settling such controversy, and the same shall be conducted in like manner. The judgment or decree therein shall have the like effect, as in other suits or proceedings of a similar kind between individuals and corporations.

In what name

§ 2. In all such suits and proceedings, the county shall be sued in the name of the board of supervisors thereof; except where county officers shall be authorized by law to sue in their name of office, for the benefit of the county.

Process how to be served

§ 3. In all legal proceedings against the board of supervisors, the first process, and all other proceedings requiring to be served, shall be served on the chairman or clerk of the board of supervisors; and whenever any such suit or proceeding shall be commenced, it shall be the duty of such chairman or clerk, to lay before the board of supervisors, at their next meeting, a full statement of such suit or proceeding, for their direction in regard to the defence thereof.

Witnesses and jurors

§ 4. On the trial of every action in which a county shall be interested, the electors and inhabitants of such county shall be competent witnesses and jurors.

Suits before justices

§ 5. Any action in favor of a county, which, if brought by an individual, could be prosecuted before a justice of the peace, may be prosecuted by such county, in like manner before any such justice.

Costs, &c.

Judgments how paid

§ 6. In all suits and proceedings prosecuted by or against counties, or by or against county officers, in their name of office, costs shall be recoverable as in the like cases between individuals. Judgments recovered against counties, or against county officers, in actions prosecuted by or against them in their name of office, shall be county charges, and when levied and collected, shall be paid to the person to whom the same shall have been adjudged.

TITLE IV.

TITLE 4.

MISCELLANEOUS AND SPECIAL PROVISIONS.

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**7.** Such payments to be made on the order of the board of supervisors.  
**8.** Hamilton county to act with Montgomery, until separately organized.

§ 1. All town and county officers, and all other persons who may present to the board of supervisors, accounts for their services, to be audited and allowed, shall, before any such account or claim shall be passed upon or allowed, exhibit a just and true statement in writing of the nature of the service performed by them.<sup>50</sup>

§ 2. In all cases in which a specific compensation for any service is not provided by law, the officer or person presenting an account therefor, shall also exhibit in writing, a just and true statement of the time actually and necessarily devoted to the performance of such services.<sup>50</sup>

§ 3. The following shall be deemed county charges :

1. The compensation of the members of the board of supervisors, of their clerk, and of the county treasurer :
2. The fees of the district attorney, and all expenses necessarily incurred by him in criminal cases arising within the county :
3. The accounts of the criers of the several courts within the county, for their attendance in criminal cases :
4. The compensation of sheriffs for the commitment and discharge of prisoners on criminal process, within their respective counties :
5. The compensation allowed by law to constables for attending courts of record, and reasonable compensation to constables and other officers, for executing process on persons charged with criminal offences ; for services and expenses in conveying criminals to jail ; for the service of subpœnas issued by any district attorney ; and for other services in relation to criminal proceedings, for which no specific compensation is prescribed by law :
6. The expenses necessarily incurred in the support of persons charged with, or convicted of crimes, and committed therefor to the several jails of the county :
7. The sums required by law to be paid to prosecutors and witnesses in criminal cases :
8. The accounts of the coroners of the county, for such services as are not chargeable to the persons employing them :

(50) Laws of 1825, p. 397, § 2.

## TITLE 4.

9. The monies necessarily expended by any county officer in executing the duties of his office, in cases in which no specific compensation for such services, is provided by law :

10. The accounts of the county clerks, for services and expenses incurred under the sixth Chapter of this Act :

11. All charges and accounts for services rendered by any justice of the peace, under the laws for the relief and settlement of the poor of such county, and for their services in the examination of felons, not otherwise provided for by law :

12. The sums necessarily expended in each county, in the support of county poor-houses, and of indigent persons whose support is chargeable to the county :

13. The sums required to pay the bounties allowed by law for the destruction of wolves and other noxious animals, and chargeable to the county :

14. The sums necessarily expended in repairing the court-houses and jails of the respective counties :

15. The contingent expenses necessarily incurred for the use and benefit of a county : and,

16. Every other sum directed by law to be raised for any county purpose, under the direction of a board of supervisors.<sup>51</sup>

Accounts  
therefor.

§ 4. Accounts for county charges of every description, shall be presented to the board of supervisors of the county, to be audited by them.

Monies to  
pay the same,  
how raised.

§ 5. The monies necessary to defray the county charges of each county, shall be levied on the taxable property in the several towns in such county, in the manner prescribed in the thirteenth Chapter of this act. And in order to enable their respective county treasurers to pay such contingent expenses, as may become payable from time to time, the boards of supervisors of the several counties, shall annually cause such sum to be raised in advance, in their respective counties, as they shall deem necessary for that purpose.<sup>52</sup>

Richmond  
county.

§ 6. When any person who shall have contributed to the marine hospital fund, and who shall not be a citizen of the county of Richmond, shall be charged with having committed any crime or misdemeanor within the jurisdiction of that county, and on the premises called the quarantine-ground, or within the limits or buoys designating the place of anchorage for vessels at quarantine, all the expenses and charges actually incurred and paid by the county of Richmond, in the apprehension, trial and maintenance of such persons, shall be repaid to the treasurer of that county, by the health commissioner, out of the monies which may from time to time, be in his hands for the use of the marine hospital.<sup>53</sup>

(51) 1 R. L. 499, § 16 & 17 : 2 R. L. 138 ; Laws of 1821, p. 114, § 3 ; p. 189, § 142 ; 1822, p. 102 ; p. 251, § 27 ; 1823, p. 210, § 5. (52) 1 R. 419, § 17. (53) Laws of 1825, p. 23.

§ 7. Such payment shall be made on the order, in writing, of the board of supervisors of the county of Richmond, accompanied by a specification of such expenses and charges.<sup>54</sup> TITLE 1.  
ib.

§ 8. The county of Hamilton shall act in conjunction with the county of Montgomery, as a part thereof, until the said county of Hamilton shall be organized as a separate county, in conformity to the act, entitled "An act to divide the county of Montgomery into two counties, and for other purposes," passed April 12, 1816.<sup>55</sup> Hamilton  
county.

## CHAP. XIII.

### Of the Assessment and Collection of Taxes.

TITLE 1.—Of the property liable to taxation.

TITLE 2.—Of the place and manner in which property is to be assessed.

TITLE 3.—Of the collection of taxes, the disposition to be made of the monies collected, and the proceedings in relation to unpaid taxes.

TITLE 4.—Regulations concerning the assessment of taxes on incorporated companies, and the commutation or collection thereof.

TITLE 5.—Miscellaneous provisions of a general nature.

TITLE 6.—Special and local provisions.

#### TITLE I.

##### OF THE PROPERTY LIABLE TO TAXATION.

Sec. 1. Property subject to taxation.

2. Meaning of terms "land," "real estate," and "real property."

3. Meaning of terms "personal estate," and "personal property."

4. Property exempt from taxation.

5. If property of ministers exceed \$1500, that sum to be deducted, and residue taxed.

6. Lands sold by state to be assessed, though not conveyed.

7. When owners of stock are not to be taxed therefor as individuals.

SECTION 1. All lands and all personal estate within this state, whether owned by individuals or by corporations, shall be liable to taxation, subject to the exemptions herein after specified.<sup>1</sup> Land and  
personal es-  
tate.

§ 2. The term "land," as used in this Chapter, shall be construed to include the land itself, all buildings, and other articles erected upon or affixed to the same, all trees and underwood growing thereon, and all mines, minerals, quarries and fossils, in and under the same, except mines belonging to the state; and the terms "real estate," and "real property," whenever they occur in this Chapter, shall be construed as having the same meaning as the term "land," thus defined. "Land" de-  
fined.

(54) Laws of 1825, p. 329. (55) Laws of 1816, p. 119. (1) This Chapter was compiled, with various alterations and additions, from the following statutes: Laws of 1823, p. 329; 1824, p. 16, 112; 1825, p. 292, 330, 355, 373; 1826, p. 45, 94, 135, § 4; 327, § 6 & 7; 1827, p. 4, § 4.

**TITLE 1.** § 3. The terms "personal estate," and "personal property," whenever they occur in this Chapter, shall be construed to include all household furniture; monies; goods; chattels; debts due from solvent debtors, whether on account, contract, note, bond or mortgage; public stocks; and stocks in monied corporations. They shall also be construed to include such portion of the capital of incorporated companies, liable to taxation on their capital, as shall not be invested in real estate.

**Property exempt.** § 4. The following property shall be exempt from taxation:

1. All property, real or personal, exempted from taxation by the constitution of this state, or under the constitution of the United States:
2. All lands belonging to this state, or the United States:
3. Every building erected for the use of a college, incorporated academy, or other seminary of learning; every building for public worship; every school-house, court-house and jail; and the several lots whereon such buildings are situated, and the furniture belonging to each of them:
4. Every poor-house, alms-house, house of industry, and every house belonging to a company incorporated for the reformation of offenders, and the real and personal property belonging to, or connected with the same:
5. The real and personal property of every public library:
6. All stocks owned by the state, or by literary or charitable institutions:
7. The personal estate of every incorporated company not made liable to taxation on its capital, in the fourth Title of this Chapter:
8. The personal property of every minister of the gospel, or priest, of any denomination; and the real estate of such minister, or priest, when occupied by him, provided such real and personal estate do not exceed the value of one thousand five hundred dollars: and,
9. All property exempted by law from execution.

**Minister or priest.** § 5. If the real and personal estate, or either of them, of any minister or priest, exceed the value of one thousand five hundred dollars, that sum shall be deducted from the valuation of his property, and the residue shall be liable to taxation.

**Lands sold by the state.** § 6. Lands sold by the state, though not granted, or conveyed, shall be assessed in the same manner as if actually conveyed.

**Owner of stock.** § 7. The owner or holder of stock in any incorporated company liable to taxation on its capital, shall not be taxed as an individual, for such stock.



TITLE II.

ART. 1.

OF THE PLACE AND MANNER IN WHICH PROPERTY IS TO BE ASSESSED.

ART. 1.—Of the place in which property is to be assessed.

ART. 2.—Of the manner in which assessments are to be made, and the duties of the assessors.

ART. 3.—Of the equalization of the assessments, and the correction of the assessment rolls.

ARTICLE FIRST.

*Of the Place in which Property is to be assessed.*

Sec. 1. Persons to be assessed in town or ward where they reside, for lands in such town, &c.

2. If land be occupied by another person, it may be assessed in name of either.
3. Unoccupied lands, not owned by residents, denominated "lands of non-residents."
4. Where land to be taxed, when divided by division line of towns,
5. Persons to be assessed where they reside, for all their personal property.
6. Real and personal property of incorporated companies, where assessed.

§ 1. Every person shall be assessed in the town or ward, where he resides when the assessment is made, for all lands then owned by him within such town or ward, and occupied by him, or wholly unoccupied. Lands where taxed.

§ 2. Land owned by a person residing in the town or ward where the same is situated, but occupied by another person, may be assessed in the name of the owner, or occupant.

§ 3. Unoccupied lands, not owned by a person residing in the ward or town where the same are situated, shall be denominated "lands of non-residents," and shall be assessed as herein after provided.

§ 4. When the line between two towns or wards divides a farm, or lot, the same shall be taxed, if occupied, in the town or ward where the occupant resides; if unoccupied, each part shall be assessed in the town in which the same shall lie; and this, whether such division line be a town line only, or be also a county line. How, if divided by town line.

§ 5. Every person shall be assessed in the town or ward where he resides when the assessment is made, for all personal estate owned by him, including all such personal estate in his possession, or under his control as trustee, guardian, executor, or administrator; and in no case shall property so held, under either of those trusts, be assessed against any other person. Personal estate where taxed.

§ 6. The real estate of all incorporated companies liable to taxation, shall be assessed in the town or ward in which the same shall lie, in the same manner as the real estate of individuals. All the personal estate of every incorporated company liable to taxation on its capital, shall be assessed in the town or ward where the principal office, or place for transacting the financial concerns of the company, shall be; or if such company have no principal office, or place for Property of corporations.

## TITLE 2.

transacting its financial concerns, then in the town or ward where the operations of such company shall be carried on. In the case of toll bridges, the company owning such bridge shall be assessed in the town or ward in which the tolls are collected; and where the tolls of any bridge, turnpike, or canal company, are collected in several towns or wards, the company shall be assessed in the town or ward, in which the treasurer or other officer authorised to pay the last preceding dividend, resides.

## ARTICLE SECOND.

*Of the Manner in which Assessments are to be made, and the Duties of the Assessors.*

SEC. 7. Assessors may divide their town or ward into districts.

8. To ascertain number of taxable inhabitants, and amount of taxable property.

9. Form of assessment roll.

10. Manner in which persons are to be assessed as trustees, &c.

11, 12. & 13. Manner in which lands of non-residents are to be designated in assessment roll.

14. When necessary, assessors to have survey made of non-resident lands.

15. Persons liable to taxation may make affidavit as to value of their property; its effect.

16. Trustees, &c. may make the like affidavit.

17. Where such value is not specified by affidavit, assessors to estimate it, and how.

18. Last section applies to all assessments under this Chapter, unless otherwise directed.

19. Assessment rolls when to be completed, and where to be left; notices thereof to be put up.

20. What notice to specify.

21. Assessment roll may be inspected during the twenty days specified in notice.

22. Assessors to meet and review assessment: assessments how reduced.

23. Persons may show, other than by their own affidavit, error in assessment.

24. Persons holding personal property as agents, not to be taxed therefor, if owner is liable to be taxed under this Chapter.

25. Affidavits under this Article to be made before assessors: where filed.

26. Assessors to sign assessment roll, and attach certificate: form of certificate.

27. When and to whom assessment rolls are to be delivered.

28. Assessors to follow instructions of comptroller.

29. Penalty of \$50 upon assessor for neglect of duty.

30. If any assessor shall omit to perform his duties, other assessors to perform them.

Assessment districts.

§ 7. The assessors chosen in each town or ward, may divide the same by mutual agreement, into convenient assessment districts, not exceeding the number of assessors in such town or ward.

Inquiry to be made.

§ 8. Between the first days of May and July, in each year, they shall proceed to ascertain, by diligent inquiry, the names of all the taxable inhabitants, in their respective towns or wards, and also all the taxable property, real or personal, within the same.

Assessment roll.

§ 9. They shall prepare an assessment roll, in which they shall set down in four separate columns, and according to the best information in their power:

1. In the first column, the names of all the taxable inhabitants, in the town or ward, as the case may be:

2. In the second column, the quantity of land to be taxed to each person:

3. In the third column, the full value of such land, according to the definition of the term land, as given in the first Title of this Chapter : ART. 2  
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4. In the fourth column, the full value of all the taxable personal property owned by such person, after deducting the just debts owing by him.

§ 10. Where a person is assessed as trustee, guardian, executor or administrator, he shall be assessed as such, with the addition to his name of his representative character, and such assessment shall be carried out in a separate line from his individual assessment ; and he shall be assessed for the value of the real estate held by him, in such representative character, at the full value thereof, and for the personal property held by him in such representative character, deducting from such personal property the just debts due from him in such representative character.

§ 11. The lands of non-residents shall be designated in the same assessment roll, but in a part thereof separate from the other assessments, and in the manner prescribed in the two following sections. Lands of non-residents.

§ 12. If the land to be assessed, be a tract which is subdivided into lots, or be part of a tract which is so subdivided, the assessors shall proceed as follows :

1. They shall designate it by its name, if known by one, or if it be not distinguished by a name, or the name be unknown, they shall state by what other lands it is bounded ;

2. If they can obtain correct information of the subdivisions they shall put down in their assessment rolls, and in a first column, all the unoccupied lots in their town or ward, owned by non-residents, by their numbers alone and without the names of their owners, beginning at the lowest number and proceeding in numerical order to the highest ;

3. In a second column, and opposite to the number of each lot, they shall set down the quantity of land therein, liable to taxation ;

4. In a third column, and opposite to the quantity, they shall set down the valuation of such quantity ;

5. If such quantity be a full lot, it shall be designated by the number alone ; if it be a part of a lot, the part must be designated by boundaries, or in some other way, by which it may be known.

§ 13. If the land so to be assessed be a tract which is not subdivided, or if its subdivisions can not be ascertained by the assessors, they shall proceed as follows :

1. They shall enter in their roll the name or boundaries thereof, as above directed, and certify in the roll that such tract is not subdivided, or that they can not obtain correct information of the subdivisions, as the case may be ;

TITLE 2

2. They shall set down in the proper column, the quantity and valuation as above directed ;

3. If the quantity to be assessed be the whole tract, such a description by its name or boundaries will be sufficient ; but if a part only is liable to taxation, that part or the part not liable, must be particularly described ;

4. If any part of such tract be settled and occupied by a resident of the town or ward, the assessors shall except such part from their assessment of the whole tract, and shall assess it as other occupied lands are assessed ; and if they can not otherwise designate such parts, they shall notify the supervisor of the town, who shall cause a survey and two manuscript maps to be made, for the purpose of ascertaining the situation and quantity of every such occupied part ;

5. One of those maps shall be delivered by the supervisor to the county treasurer, to be by him transmitted to the comptroller, and the other shall be delivered in like manner to the assessors ;

6. The assessors shall then complete the assessment of the tract, and shall deposit the map in the town clerk's office, for the information of future assessors. And the expense of making such survey and maps shall be immediately repaid to the supervisor, out of the county treasury ; and it shall be added by the board of supervisors to the tax on the tract, distinguishing it from the ordinary tax.

Survey of
non-resident
lands.

§ 14. Whenever it shall be deemed necessary by the assessors of any town, to have an actual survey made, to ascertain the quantity of any lot or tract of non-resident lands which is divided by the town line, they shall notify the supervisor, who shall cause the necessary surveys to be made at the expense of the town.

Affidavit of
value of prop-
erty.

§ 15. If any person, whose real or personal estate is liable to taxation, shall at any time before the assessors shall have completed their assessments, make affidavit that the value of his real estate does not exceed a certain sum, to be specified in such affidavit ; or that the value of the personal estate owned by him, after deducting his just debts, and his property invested in the stock of incorporated companies, liable under this Chapter to taxation on their capital, does not exceed a certain sum to be specified in the affidavit, it shall be the duty of the assessors to value such real or personal estate, or both as the case may be, at the sums specified in such affidavit, and no more.

Il. by trus-
tees, &c.

§ 16. If any trustee, guardian, executor or administrator, shall specify, by affidavit, the value of the property possessed by him, or under his control, by virtue of such trust, after deducting the just debts due from him, and the stock held by him in incorporated companies liable to taxation, in that capacity, the assessors shall in like manner value the same, at the sum specified in such affidavit.

§ 17. All real and personal estate liable to taxation, the value of which shall not have been specified by the affidavit of the person taxed, shall be estimated by the assessors at its full value, as they would appraise the same in payment of a just debt due from a solvent debtor. ART. 9.
Rule of valuation.

§ 18. The preceding section shall be followed in all assessments made under this Chapter, except where the assessors shall be specially required by law to observe a different rule. Qualification.

§ 19. The assessors shall complete the assessment rolls on or before the first day of August in every year, and shall make out one fair copy thereof, to be left with one of their number. They shall also forthwith cause notices thereof to be put up at three or more public places in their town or ward. Roll when to be completed; notice.

§ 20. Such notices shall set forth that the assessors have completed their assessment roll, and that a copy thereof is left with one of their number to be designated in such notice, at some place to be specified therein, where the same may be seen and examined by any of the inhabitants of the town or ward during twenty days; and that the assessors will meet on a certain day, at the expiration of such twenty days, and at a place to be specified in such notice, to review their assessments, on the application of any person conceiving himself aggrieved. Contents of notice.

§ 21. The assessor with whom such assessment roll is left, shall submit the same, during the twenty days specified in such notice, to the inspection of all persons who shall apply for that purpose. Inspection of roll.

§ 22. The assessors shall meet at the time and place specified in the notice, and on the application of any person conceiving himself aggrieved by their assessment, shall review such assessment. And when the person objecting thereto, shall not previously have made affidavit concerning the value of his property, pursuant to the fifteenth and sixteenth sections of this Title, the assessors shall, on the affidavit of such person, made as provided in those sections, reduce their assessments to the sum specified in such affidavits. Assessors to meet and review assessments.

§ 23. If the person objecting to the assessment, can show, by other proof than his own affidavit, to the satisfaction of the assessors, or of a majority of them, that such assessment is erroneous, the assessors shall review and alter the same, without requiring any such affidavit.

§ 24. Where any person, in possession of personal property liable to taxation, shall make affidavit, that such property, or any part thereof, specifying what part, is possessed by him as agent for the owner thereof, and shall disclose in such affidavit the name and residence of the owner, the assessors, if it shall appear that such owner is liable to be taxed under this Chapter, shall not include such personal estate in the assessment of the property of such possessor. Affidavit by agent.

TITLE 2.

*Affidavits by
four whom
made.*

§ 25. The affidavits specified in this Article, shall be made before the assessors, or one of them, either of whom is hereby authorised to administer an oath for that purpose ; and the assessors shall cause all such affidavits to be filed in the office of the town clerk.

*Certificate to
assessment
roll.*

§ 26. If no objection be made to their assessments, or immediately after the assessors shall have disposed of the objections, the assessors, or a majority of them, shall sign the assessment roll, and shall attach thereto a certificate, in the following form, which shall also be signed by them : “ We do severally certify, that we have set down, in the above assessment roll, all the real estate, situated in the [town or ward, as the case may be,] according to our best information ; and that, with the exception of those cases in which the value of the said real estate has been sworn to, by the owner or possessor thereof, we have estimated the value of the said real estate, at the sums which a majority of the assessors have decided to be the true value thereof, and at which they would appraise the same in payment of a just debt due from a solvent debtor : and also that the said assessment roll contains a true statement of the aggregate amount of the taxable personal estate of each and every person named in the said roll, over and above the amount of debts due from such persons respectively, and excluding such stocks as are otherwise taxable ; and that with the exception of those cases in which the value of such personal estate has been sworn to by the owner or possessor, we have estimated the same according to our best information and belief.”

*Roll to be de-
livered.*

§ 27. The roll, thus certified, shall, on or before the first day of September in every year, be delivered by the assessors of each ward, in the city of New-York, to the clerk of the city, and by the assessors of every other town or ward, to the supervisor thereof, who shall deliver the same to the board of supervisors at their next meeting.

*Duty of as-
sessor.*

§ 28. The assessors in the execution of their duties, shall use the forms, and pursue the instructions, which shall from time to time be transmitted to them by the comptroller.

1b.

§ 29. If any assessor shall wilfully refuse or neglect to perform any of the duties required of him, by this Chapter, he shall forfeit, to the people of this state, the sum of fifty dollars.

1c.

§ 30. If any assessor shall neglect, or from any cause omit to perform his duties, the other assessors, or either of them, of the town or ward, shall perform such duties, and shall certify to the supervisors with their assessment roll, the name of such delinquent assessor, stating therein the cause of such omission.

ARTICLE THIRD.

ART. 3.

Of the Equalization of the Assessments, and the Correction of the Assessment Rolls.

- SEC. 31. Assessment rolls to be examined by board of supervisors of county.
- 32. Board may alter the description of the lands of non-residents.
- 33. To estimate the tax to be paid on valuations of real and personal estate.
- 34. To add up, and set down the aggregate valuations of real and personal property.
- 35. To cause a copy of corrected assessment roll to be delivered to each supervisor.
- 36. To cause a copy to be delivered to collector of every town, &c.
- 37. Warrant of supervisors to be annexed to copy delivered to collectors ; its form.
- 38. Account of rolls and warrants delivered to collectors, to be sent to county treasurer.
- 39. Warrant to be varied so as to conform to the laws respecting cities.

§ 31. The board of supervisors of each county in this state, at their annual meeting, shall examine the assessment rolls of the several towns in their county, for the purpose of ascertaining whether the valuations in one town or ward, bear a just relation to the valuations in all the towns and wards, in the county ; and they may increase or diminish the aggregate valuations of real estates, in any town or ward, by adding or deducting such sum upon the hundred as may, in their opinion, be necessary, to produce a just relation between all the valuations of real estates in the county ; but they shall, in no instance, reduce the aggregate valuations of all the towns and wards, below the aggregate valuation thereof, as made by the assessors.

Supervisors to examine assessment roll.

§ 32. The board of supervisors shall also make such alterations in the descriptions of the lands of non-residents, as may be necessary to render such descriptions conformable to the provisions of this Chapter ; and if such alterations cannot be made, they shall expunge the descriptions of such lands, and the assessments thereon, from the assessment rolls.

Lands of non-residents.

§ 33. They shall also estimate and set down in a fifth column, to be prepared for that purpose, in the assessment rolls, opposite to the several sums set down as the valuations of real and personal estates, the respective sums in dollars and cents, rejecting the fractions of a cent, to be paid as a tax thereon.

Tax to be set down.

§ 34. They shall also add up and set down the aggregate valuations of the real and personal estates in the several towns and wards, as corrected by them ; and shall cause their clerk to transmit to the comptroller, by mail, a certificate of such aggregate valuations, showing separately, the aggregate amount of real and personal estate in each town or ward, as corrected by the board.

Aggregate valuations.

§ 35. They shall cause the corrected assessment roll of each town or ward, or a copy thereof, to be delivered to each of the supervisors of the several towns or wards, who shall deliver the same to the clerk of their city or town, to be kept by him for the use of such city or town.

Corrected assessment roll.

TITLE 2.

Corrected as-
essment roll.

§ 36. The boards of supervisors of the several counties in this state, shall cause the corrected assessment roll of each town or ward in their respective counties, or a fair copy thereof, to be delivered to the collector of such town or ward, on or before the fifteenth day of December in each year.

Warrant to
be annexed ;
its contents.

§ 37. To each assessment roll, so delivered to a collector, a warrant, under the hands and seals of the board of supervisors, or of a majority of them, shall be annexed, commanding such collector, to collect from the several persons named in the assessment roll, the several sums mentioned in the last column of such roll, opposite to their respective names.

If the warrant be directed to the collector of a town, it shall direct the collector, out of the monies so to be collected, after deducting the compensation to which he may be legally entitled, to pay,

1. To the commissioners of common schools of his town, such sum as shall have been raised for the support of common schools therein :
2. To the commissioners of highways of the town, such sum as shall have been raised for the support of highways and bridges therein :
3. To the overseers of the poor of the town, if there be no county poor-house, or other place provided in the county for the reception of the poor, such sum as shall have been raised for the support of the poor in such town :
4. To the supervisor of the town, all other monies which shall have been raised therein, to defray any other town expenses : And,
5. To the treasurer of the county, the residue of the monies so to be collected.

If the warrant be directed to the collector of a ward, it shall direct the collector to pay all the monies to be collected, after deducting his compensation, to the treasurer of the county.

In all cases, the warrant shall authorise the collector, in case any person named in the assessment roll shall refuse or neglect to pay his tax, to levy the same by distress and sale of the goods and chattels of such person ; and it shall require all payments therein specified, to be made by such collector, on or before the first day of February then next ensuing.

Account to
be transmit-
ted to county
treasurer.

§ 38. As soon as the board of supervisors shall have sent or delivered the rolls, with such warrants annexed, to the collectors, they shall transmit to the treasurer of the county an account thereof, stating the names of the several collectors, the amount of money they are respectively to collect, the purposes for which the same are to be collected, and the persons to whom, and the time when the same are to be paid ; and the county treasurers, on receiving such account, shall charge to each collector, the sums to be collected by him.

Cities.

§ 39. Wherever the laws respecting cities, shall have directed the monies assessed for any local purpose, to be paid to any person or of-

ficer other than those named in the preceding thirty-seventh section, the collector's warrant may be varied accordingly, so as to conform to such alteration.

ART. 1.

TITLE III.

OF THE COLLECTION OF TAXES, THE DISPOSITION TO BE MADE OF THE MONIES COLLECTED, AND THE PROCEEDINGS IN RELATION TO UNPAID TAXES.

- ART. 1.—Of the manner in which taxes are to be collected, and the duties of the collector.
- ART. 2.—Of the payments and returns to be made by the county treasurers, and the duty of the comptroller, and other officers thereupon.
- ART. 3.—Of sales for unpaid taxes, and the conveyance and redemption of lands sold.

ARTICLE FIRST.

Of the Manner in which Taxes are to be Collected, and the Duties of the Collector.


- Sec. 1. Collectors, upon receiving tax list and warrant, to proceed to collect the taxes.
2. Where persons refuse to pay, tax to be levied by distress and sale.
 3. Collector to give notice of time and place of sale.
 4. If property sells for more than tax, surplus how to be disposed of.
 5. Remedy against persons who remove before collection of tax.
 6. Collectors to pay money as required in warrant to town officers and county treasurer.
 7. When the taxes collected for town charges amount to more than the charges upon the town, surplus to be paid to county treasurer.
 8. When collector is to receive tax on part of a lot.
 9. Person paying tax on part, to state who the owner is.
 10. Collector to deliver to county treasurer a list of uncollected taxes.
 11. If any collector refuse to serve, &c. supervisor and two justices to appoint another.
 12. Warrant to be issued to the person so appointed.
 13. If collector neglects to pay over monies, county treasurer to issue warrant.
 14. Duty of sheriff to whom such warrant shall be directed.
 15. Sheriff to state in his return the amount collected.
 16. If none, or a part only of monies due, be collected, bond of collector to be put in suit.
 17. If sheriff neglect to make return, &c. to be proceeded against by attachment.
 18. If proceedings by attachment are had, county treasurer to certify it to comptroller.
 19. Attorney-general to prosecute sheriff and his sureties for sum due on warrant.
 20. When collector settles for taxes, county treasurer to give satisfaction piece.
 21. Upon production of satisfaction piece, county clerk to discharge collector's bond.
 22. Fees of officers taking acknowledgment of such satisfaction pieces.

§ 1. Every collector, upon receiving the tax list and warrant, shall proceed to collect the taxes therein mentioned, and for that purpose shall call, at least once, on the person taxed, or at the place of his usual residence, if in the town or ward for which such collector has been chosen, and shall demand payment of the taxes charged to him on his property.

Collector to call for taxes.

§ 2. In case any person shall refuse or neglect to pay the tax imposed on him, the collector shall levy the same by distress and sale of the goods and chattels of the person who ought to pay the same, or of any goods and chattels in his possession, wheresoever the same may be found, within the district of the collector; and no claim of pro-

Proceedings in case of refusal to pay.

TITLE 3.  property to be made thereto by any other person, shall be available to prevent a sale.²

Sale, &c. § 3. The collector shall give public notice of the time and place of sale, and of the property to be sold, at least six days previous to the sale, by advertisements to be posted up, in at least three public places, in the town where such sale shall be made. The sale shall be by public auction.

n. § 4. If the property distrained shall be sold for more than the amount of the tax, the surplus shall be returned to the person in whose possession such property was, when the distress was made, if no claim be made to such surplus by any other person. If any other person shall claim such surplus, on the ground that the property sold belonged to him, and such claim be admitted by the person for whose tax the same was distrained, the surplus shall be paid to such owner; but if such claim be contested by the person for whose tax the property was distrained, the surplus monies shall be paid over by the collector to the supervisor of the town, who shall retain the same until the rights of the parties shall be determined by due course of law.³

Proceedings in case of removal of person taxed.

§ 5. In case any person upon whom any tax now is, or hereafter shall be assessed, in any ward of any of the cities, or in any town within this state, shall have removed out of such ward or town, after such assessment, and before such tax ought by law to have been collected; or if any person shall neglect or refuse to pay any tax which now is, or hereafter shall be assessed in any ward of either of the said cities, or in any town, upon any estate of such person, situated out of the ward or town in which he shall reside, and within the county; it shall be lawful, in either of those cases, for the collector of such ward or town, to levy and collect such tax of the goods and chattels of the person assessed, in any ward within the said cities, or in any town within the said county, to which such person shall have so removed, or in which he shall reside.

Collector to pay over monies.

§ 6. Every collector shall, within one week after the time mentioned in his warrant, for paying the monies directed to be paid to the town officers of his town and to the county treasurer, pay to such town officers and county treasurer, the sums required in such warrant to be paid to them respectively, first retaining the compensation to which he may be legally entitled. The town officers to whom any such monies shall be paid, shall deliver to the collector duplicate receipts therefor, one of which duplicates shall be filed by the collector with the county treasurer, and shall entitle him to a credit, in the books of the county treasurer, for the amount therein stated to have

(2) Replevin prohibited in this case, in Part III. See General Index, Title *Replevin*.
 (3) Mode of determining rights of parties, prescribed in Part III. See General Index, Title *Taxes*.

been received ; and no other evidence of such payment shall be received by the county treasurer. ART. 1.

§ 7. Whenever any greater amount of taxes shall be assessed in any town than the town charges thereof, and its proportion of the state tax, and county charges, the surplus shall be paid by the collector to the county treasurer, who shall place it to the credit of such town, and the same shall go to the reduction of the tax of the succeeding year. If greater sum collected than town charges, surplus how disposed of.

§ 8. The collector shall receive the tax on a part of any lot, piece or parcel of land, charged with taxes, provided the person paying such tax shall furnish a particular specification of such part ; and if the tax on the remainder of such lot, piece or parcel of land, shall remain unpaid, the collector shall enter such specification, in his return to the county treasurer, to the end that the part on which the tax remains unpaid, may be clearly known. Tax on part of lot.

§ 9. If the part on which the tax shall be so paid, be an undivided share, then the person paying the same, shall state to the collector who is the owner of such share, that it may be excepted in case of a sale for the tax on the remainder. And the collector shall enter the name of such owner on his account of arrears of taxes.

§ 10. If any of the taxes mentioned in the tax list annexed to his warrant shall remain unpaid, and the collector shall not be able to collect the same, he shall deliver to the county treasurer an account of the taxes so remaining due ; and upon making oath before the county treasurer, or in case of his absence, before any justice of the peace, that the sums mentioned in such account remain unpaid, and that he has not, upon diligent inquiry, been able to discover any goods or chattels, belonging to, or in the possession of the persons charged with, or liable to pay such sums, whereon he could levy the same, he shall be credited by the county treasurer with the amount thereof. Duty of collector as to unpaid taxes.

§ 11. If any person chosen or appointed to the office of collector of any town or ward in this state, shall refuse to serve, or shall die, resign, or remove out of the town or ward, before he shall have entered upon or completed the duties of his office, or shall be disabled from completing the same, by reason of sickness or any other cause, the supervisor and any two justices of such town or ward, shall forthwith appoint a collector for the remainder of the year, who shall give the like security, and be subject to the like duties and penalties, and have the same powers and compensation, as the collector in whose place he was appointed ; and the supervisor shall forthwith give notice of such appointment to the county treasurer. But such appointment shall not exonerate the former collector, or his sureties, from any liability incurred by him or them. Proceedings if collector refuse to serve, &c. ; another appointed.

§ 12. If a warrant shall have been issued by the board of supervisors prior to any appointment under the last section, the original warrant, if the same can be recovered, shall be delivered to the collector so appointed, and shall be executed as giving him the same power as if originally issued to himself; but if such warrant can not be obtained, a new one shall be made out by the clerk of the board of supervisors of the county, which shall be directed to the collector so appointed. And upon every such appointment, the supervisor of the town or ward, if he shall think it necessary, may extend the time limited for the collection of the taxes, for a period not exceeding thirty days; of which extension he shall forthwith give notice to the county treasurer.

Proceedings in case of collector's refusal to pay over monies.

§ 13. If any collector shall refuse or neglect to pay to the several town officers of his town or to the county treasurer, the sums required by his warrant to be paid to them respectively, or either of them, or to account for the same as unpaid, the county treasurer shall, within twenty days after the time when such payments ought to have been made, issue a warrant under his hand and seal, directed to the sheriff of the county, commanding him to levy such sum as shall remain unpaid and unaccounted for by such collector, of the goods and chattels, lands and tenements of such collector, and to pay the same to the county treasurer, and return such warrant within forty days after the date thereof; which warrant the county treasurer shall immediately deliver to the sheriff of the county; but no such warrant shall be issued by the county treasurer for the collection of monies payable to town officers, without proof, by the oath of such town officers, of the refusal or neglect of the collector to pay the same, or account therefor as above provided.

Duty of sheriff on warrant against collector.

§ 14. The sheriff to whom such warrant is directed, shall immediately cause the same to be executed, and shall make return thereof to the county treasurer, within the time therein specified, and shall pay to him the money levied by virtue thereof, deducting for his fees the same compensation that the collector would have been entitled to retain. Such part of the monies collected, if any, as ought to have been paid by the collector to town officers, shall be paid by the county treasurer to the officers to whom the collector was directed to pay the same: but if the whole amount of monies due from the collector, shall not be collected in such warrant, the county treasurer shall first retain the amount which ought to have been paid to him, before making any payment to the town officers.

Sheriff's return.

§ 15. If the whole sum due from the collector shall be collected, the sheriff shall so state in his return; but if a part only, or if no part of such sum shall be collected, the sheriff shall state in his return the amount levied, if any, exclusive of his fees, and shall also certify that such collector has no goods or chattels, lands or tenements, in his



county, from which the monies, or the residue thereof, as the case may be, could be levied; and in either case, the county treasurer shall forthwith give notice to the supervisor of the town or ward, of the amount due from such collector. ART. 1.

§ 16. The supervisor shall forthwith cause the bond of such collector to be put in suit, and shall be entitled to recover thereon the sum due from such collector, with costs of suit; and the monies recovered shall be applied and paid by the supervisor, in the same manner in which it was the duty of the collector to have applied and paid the same. Collector's bond when to be sued.

§ 17. If any sheriff shall neglect to return any such warrant, or to pay the money levied thereon, within the time limited for the return of such warrant; or shall make any other return than such as is above mentioned, the county treasurer shall forthwith proceed to collect, by attachment, the whole sum directed to be levied by such warrant.⁴ Proceedings against sheriff if he neglect to return warrant or pay.

§ 18. In case the county treasurer shall fail to collect such monies, by attachment, he shall certify to the comptroller, that he has issued such warrant, stating its contents, that the sheriff has neglected to return the same, in the manner required by law, or to pay the money levied thereon, as the case may be, and that he has pursued the remedy, by attachment, without effect. Ib.

§ 19. The comptroller shall give notice thereof to the attorney-general, who shall immediately prosecute such sheriff, and his sureties, for the sum due on such warrant; which sum, when collected, shall be paid to the treasurer of this state, and by him, on the comptroller's warrant, to the county treasurer. Ib.

§ 20. Upon the settlement of the amount of taxes, directed to be collected by any collector, in any of the towns or wards in this state, (the city of New-York excepted,) the county treasurer shall, if requested, give to such collector, or to any of his sureties, a satisfaction piece in writing, and shall acknowledge the same, before some person authorised to take acknowledgments of the satisfaction of judgments in courts of record. Satisfaction of collector's bond.

§ 21. Upon the production of such satisfaction piece, acknowledged as aforesaid, the clerk of the county shall enter satisfaction of record of the collector's bond, which shall thereby be discharged. Ib.

§ 22. The officers taking and entering such acknowledgment of satisfaction, shall be entitled to the same fees as for taking and entering acknowledgment of satisfaction of a judgment in the courts of common pleas. Ib.

(4) Mode of proceeding against the sheriff in this case, prescribed in Part III. See General Index, Title Attachment.

TITLE 3.

ARTICLE SECOND.

Of the Payments and Returns to be made by the County Treasurers, and the Duty of the Comptroller, and other Officers thereupon.

- Sec. 23. Creditors of county to be paid, from monies collected, as supervisors shall direct.
24. County treasurers to pay state tax to state treasurer annually, on the first of March.
25. Payment may be made, by depositing monies in certain banks.
26. County treasurer to compare collector's account of unpaid taxes on non-resident lands, with the original assessment rolls.
27. Proceedings where land becomes vacant before tax collected.
28. Taxes may be paid in county where land lies.
29. State tax, if any, to be charged to county treasurers, according to valuations returned.
30. County treasurer to be credited with arrears on certain non-resident lands.
31. If such arrears exceed state tax, balance to be paid to county treasurer.
32. Accounts of county treasurers to be stated annually.
33. If they neglect to pay balance, attorney-general to prosecute.
34. Comptroller may direct supervisors to sue bond of treasurer.
35. If balance and costs paid before judgment, suit to be discontinued.
36. Comptroller annually to furnish supervisors of counties, accounts of sums paid out of state treasury, to county treasurers, for arrears of taxes.
37. Comptroller to send county treasurers a transcript of rejected taxes.
38. Taxes on lands imperfectly described, to be charged to the treasurer of county.
39. Comptroller to send transcript of such taxes to county treasurer.
40. When comptroller rejects tax, or charges it to county on account of imperfect description of lands, supervisor of the town to add a new description.
41. If supervisor can not correct the description, the taxes to be levied upon the town.
42. When town is divided after assessment, tax how to be apportioned.
43. Comptroller may cancel and repay taxes erroneously returned.
44. When tax so cancelled, amount to be collected of person making erroneous return.
45. Taxes on land remaining unpaid until August, subject to ten per cent. interest.
46. Comptroller to give certificate of the tax due on any piece of land.
47. When persons claiming a part of the land assessed, may pay part of tax.
48. If such tract be subdivided, map of subdivision to be delivered.
49. Tax for any one year may be paid. Overcharged tax to be deducted or refunded.
50. When comptroller to charge amount so refunded, to county treasurer.
51. County treasurer to deliver account thereof to supervisors at their next meeting.

Payments to
creditors of
county.

§ 23. The treasurer of each county, shall pay to the creditors of his county, from the monies paid to him by the collectors, such sums, and in such manner, as the board of supervisors shall have directed.

State tax.

§ 24. The several county treasurers shall, on or before the first day of March, in each year, pay to the treasurer of this state, the amount of the state tax, if any, raised and paid over to them respectively, retaining the compensation to which they may be entitled.

Payments
when made.

§ 25. Such payments may also be made by depositing such monies to the credit of the treasurer of this state, in such banks, in the cities of New-York or Albany, as shall have been designated by the comptroller, and shall then be entitled to receive the state deposits; and in case of such payment, to either of those banks, the county treasurer making it, shall forthwith transmit a certificate of deposit to the comptroller, who shall thereupon certify such payment to the state treasurer, and charge him with the amount thereof.

Examination
of collector's
account of
unpaid taxes.

§ 26. Whenever any county treasurer shall receive from a collector, an account of unpaid taxes assessed on the lands of non-resi-

dents, such county treasurer shall compare the same with the original assessment roll, and if he finds it to be a true transcript thereof, he shall add to it a certificate, showing that he has examined and compared the account with the assessment roll, and found the same to be correct; and after crediting the collector with the amount, shall, before the first day of April next ensuing, transmit the account and collector's affidavit, to the comptroller, with a certificate that he has compared the account with the entries of the same taxes, in the original assessment roll, and has found the same to be a true transcript of such roll.

ART. 2.

§ 27. If the taxes on any farm, or lot of land, assessed to a resident, shall be returned as unpaid, in consequence of such premises becoming vacant by the removal of the occupant, before the collection of the tax imposed thereon, or in default of goods and chattels of the occupant to satisfy such tax, the supervisor of the town in which such land is situated, shall add a description thereof to the assessment roll of the next year, and shall charge the same with the uncollected tax of the preceding year; and the same proceedings shall be had thereon, in all respects, as if such tax had been laid in the year, in which the description is perfected.

Land of resident becoming vacant.

§ 28. Any person whose lands are assessed, may pay the tax assessed thereon to the treasurer of the county in which such lands are situated, provided such payment be made to the county treasurer, before he shall have made his annual return of the arrears of taxes to the comptroller. The county treasurer shall give a receipt for such payment, and shall also make return thereof, to the comptroller of this state.

Where taxes on land may be paid.

§ 29. The comptroller shall, from the annual returns made to him of the valuations of real and personal estates in the several counties of this state, charge the several county treasurers with the amount of the state taxes, if any, to be raised in their respective counties, crediting them with their own fees, and the fees of the collector. But no fees shall be allowed by the comptroller to the county treasurers, or the collectors, in adjusting the accounts of the county treasurers, for such portion of the state tax as is paid, by credit given for taxes on non-resident property returned to him.

County treasurer charged with state tax

§ 30. Whenever any accounts of arrears of taxes on the lands of non-residents, shall be transmitted by a county treasurer to the comptroller, he shall examine them, and reject all taxes that shall be found to be charged on lands imperfectly described; and credit such county treasurer, in a book to be kept by the comptroller for that purpose, with the amount of all arrears of taxes which shall be admitted by him.

To be credited with arrears of taxes.

TITLE 3.

Balance to be paid to county treasurer.

§ 31. If the arrears so credited to the treasurer of any county, shall exceed the state tax, if any, in such county, the comptroller shall cause the surplus, after deducting therefrom any balance which may be due from such county, on account of taxes previously rejected by the comptroller, to be paid out of the treasury of this state, to the treasurer of such county; and the whole amount of taxes so to be assumed by the state, shall be collected for its benefit, in the manner hereinafter provided. If there be no state tax, the whole amount of such arrears, after deducting such balance, as above mentioned, shall be paid to the county treasurer.

Accounts with county treasurers to be settled.

§ 32. The comptroller shall state the accounts of the several county treasurers, on the first day of May, in every year; and whenever any part of a state tax shall appear to be unpaid by any county treasurer, the comptroller shall transmit, by mail, to such county treasurer, a copy of his account, requiring him to pay the balance within thirty days.

Proceedings if county treasurer neglects to pay balance.

§ 33. If any county treasurer shall refuse or neglect to pay such balance, within such time, the comptroller shall forthwith, (unless he shall be satisfied, by due proof, that such treasurer has not received such balance, and has taken all proper steps to collect the same,) deliver a copy of such county treasurer's account to the attorney-general, who shall prosecute forthwith; and the state shall be entitled to recover the balance due, with interest thereon.

It.

§ 34. The comptroller may also, in his discretion, direct the board of supervisors of the proper county, to institute one or more suits, on the bond of such treasurer and his sureties.

It.

§ 35. If the defendants, in any suits to be brought under either of the two last sections, shall, at any time before judgment is obtained therein, pay the balance due the state, with interest, into the treasury, or account for the same to the comptroller, it shall be his duty, on payment of the costs of suit, to direct such suits to be discontinued.

Comptroller to transmit statements to supervisors.

§ 36. It shall be the duty of the comptroller, on or before the first Tuesday of October, in every year, to furnish the boards of supervisors of the several counties, from which returns of arrears of taxes shall have been received at his office, with statements of the sums paid out of the state treasury, to their respective county treasurers, on account of such arrears during the year preceding.

Transcripts to county treasurers.

§ 37. The comptroller shall, on or before the first day of September, in each year, transmit, by mail, to the several county treasurers, a transcript of the taxes of the preceding year, assessed in any town of such county, which shall have been rejected by him, for any cause whatsoever, stating therein the cause of such rejection.

§ 38. Whenever the comptroller, after having transmitted such annual transcript, shall discover that any taxes credited to a county in the books of his office, have been assessed on lands so imperfectly described, that the same can not, in his opinion, be located with certainty, he shall charge such taxes to the treasurer of the county, in which such lands shall be, with interest thereon, from the first day of March in the year following that in which the taxes were laid, to the first day of February next after the discovery of such imperfect description.

ART.-2.
Assessments on lands imperfectly described.

§ 39. The comptroller shall also transmit, by mail, a transcript of the return of such taxes, with the addition of such interest, to the proper county treasurer, who shall deliver the same to the supervisor of the town upon which such taxes are to be assessed, by whom it shall be delivered to the board of supervisors at their next meeting. If the town upon which the taxes were originally assessed, shall have been divided since such assessment, the county treasurer shall deliver such transcript to the board of supervisors at their next meeting.

§ 40. Whenever the comptroller shall have rejected any tax in the first instance, or have charged the same to a county to which it shall have been before credited, on account of any inaccurate or imperfect description of the lands on which such tax was laid, the supervisor of the town in which such lands are situated, shall, if in his power, add to the next assessment roll of such town, an accurate description of such lands; and the board of supervisors shall charge them with the taxes and interest in arrear, stating the tax of each year separately, and shall direct the collection thereof. And such taxes and interest shall, for all the purposes of this Chapter, be considered as the taxes of the year in which the descriptions shall be perfected.

ib. Duty of supervisor of town.

§ 41. If an accurate description of such lands shall not have been added by such supervisor, to the assessment roll of his town, the board of supervisors shall cause such arrears of taxes, and the interest thereon, to be levied on the valuations of the estates real and personal of such town, as appearing by such assessment roll, and shall direct the same to be collected with the other taxes of the same year.

Duty of board of supervisors.

§ 42. If the town in which such taxes were originally assessed, shall have been divided since such assessment, then such taxes and interest shall be apportioned by the board of supervisors among the towns, included within the limits of such original towns, in such equitable manner as they may deem proper.

If town has been divided.

§ 43. Whenever it shall be made to appear to the comptroller, that any tax returned as unpaid, was, previously to such return, paid to the collector or county treasurer, the comptroller shall cancel such tax on the books of his office. And if the same shall have been also paid into the treasury, he shall cause it to be repaid out of the treasury, to the person by whom such payment shall have been made.

Tax when to be cancelled.

TITLE 3.

1b.

§ 44. Whenever any tax shall be so cancelled by the comptroller, he shall transmit an account thereof to the supervisors of the proper county, who shall cause the amount of such tax, with the interest thereon, to be collected of the collector or county treasurer who made such erroneous returns, and to be paid into the treasury of this state.

Interest on taxes.

§ 45. If any taxes charged on lands, shall remain unpaid until the first day of August following the year in which they shall have been assessed, they shall thereafter be subject to a yearly interest, at the rate of ten per cent. until the same shall be paid to the treasurer, or the land sold as herein after provided.

Certificate of charges.

§ 46. The comptroller shall, from time to time, give to any person requiring the same, a certificate of the amount of any tax, interest and charges, due on any tract, piece or parcel of land; and the treasurer may receive such tax, interest and charges, and give a receipt therefor upon such certificate, which shall be countersigned by the comptroller, and entered in the books of his office.

Part of tax may be paid.

§ 47. Whenever a sum in gross is assessed upon any tract, piece or lot of land, any person claiming a divided or undivided part thereof, may pay to the treasurer, any part of the tax, interest and charges, due thereon, proportionate to the number of acres claimed by him, on the certificate of the comptroller; and the remaining tax, interest and charges, shall be a lien on the residue of the land only.

Map when required.

§ 48. If the tract be subdivided, the person wishing to pay the tax upon a divided part of it, shall deliver to the comptroller a map of the subdivisions, if required by him.

Tax paid for one year only.

Overcharge.

§ 49. Any person may pay the tax for any one year, and the interest and charges thereon, on any tract or lot of land, without paying the tax of any other year; and in case any tract or lot of land shall have been returned as containing a greater quantity of land than it shall actually contain, the amount overcharged shall be deducted, or if the tax shall have been paid according to such return, shall be refunded out of the treasury, on satisfactory proof being produced to the comptroller, of the quantity actually contained in such tract or lot, at any time before the sale of such lands.

1b.

§ 50. If the whole amount of the tax in the case of such overcharge, shall have been paid to the county treasurer, out of the treasury of this state, the comptroller shall charge the amount so refunded, with the interest and charges thereon, to the treasurer of the county from which the tax was returned, and shall transmit an account thereof to him.

1b.

§ 51. Such county treasurer shall deliver such account to the board of supervisors at their then next meeting, who shall cause the

mount thereof to be added to the proportion of the charges of the county, to be raised in the town in which the tax was laid.

ART. 3.

ARTICLE THIRD.

Of Sales for unpaid Taxes, and the Conveyance and Redemption of Lands sold.

- 52. If tax remains unpaid for two years, land to be sold.
- 53. Comptroller to cause list of lands liable to be sold, to be printed and distributed.
- 54. He may employ agents to transmit such lists.
- 55. Compensation of such agents to be paid out of treasury.
- 56. Expenses of printing and sending lists, to be a charge on the lands advertised.
- 57. County treasurers to retain five copies, and send the remainder to town clerks.
- 58. Expenses of sending to town clerks, a county charge.
- 59. Town clerks to give notice of receipt of lists, at the opening of town-meeting.
- 60. Comptroller to advertise lands in newspapers seventeen weeks.
- 61. Printers to transmit affidavits of publication.
- 62. Comptroller may apply to boards of supervisors for maps or descriptions.
- 63. On the day of sale comptroller to commence the sale.
- 64. Purchasers to pay the amount of their bids to treasurer, within 48 hours.
- 65. Certificate of sale to be executed by comptroller.
- 66. Owner or any other person may redeem at any time within two years.
- 67. Person claiming an undivided part of a tract sold, may redeem.
- 68. Person claiming an undivided share in a lot, out of which an undivided part has been sold, may redeem.
- 69. Person claiming a specific part of a lot sold, may redeem.
- 70. Person claiming a specific part of any lot, out of which an undivided part shall been sold, may redeem.
- 71. Person claiming a specific part of a lot, out of which a part belonging to some other person has been sold, may pay his proportion of the taxes.
- 72. In every case of a partial redemption, quantity sold to be reduced.
- 73. Lands of one person sold for taxes assessed conjointly on his lands and the lands of another, may be redeemed.
- 74. If land be conveyed, owner may recover a proportionate share of the value thereof.
- 75. Judgments under two last sections, to have priority of certain liens.
- 76. Comptroller to publish notice that lands sold will be conveyed, unless redeemed.
- 77. Also to transmit notices of lands sold and unredeemed, to the counties.
- 78. To transmit such notices to county treasurers : county treasurers to publish lists.
- 79. If there be no newspaper in the county, notice how affixed, &c.
- 80. If lands are not redeemed in two years, comptroller to execute deed : its effect.
- 81. Deed how to be executed : evidence that sale was regular.
- 82. Comptroller to bid in lots for which no other shall bid : proceedings thereupon.
- 83. If the lands conveyed are occupied, grantee to notify occupant to redeem.
- 84. Notice how served.
- 85. Occupant or other person may redeem within six months.
- 86. Receipt of treasurer stating the payment, evidence of such redemption.
- 87. If lands are occupied, grantee, to perfect his title, must file affidavit of notice.
- 88. Conveyance when to become absolute.
- 89. If comptroller discover that sale is invalid, not to convey, but to refund money.
- 90. Sum paid when to be a charge against county from which tax was returned.
- 91. If discovery of invalidity of sale, be after conveyance, money to be refunded, &c.
- 92. Expenses, &c. of sale, a charge on lands sold.
- 93. Monies received upon sale, and for expenses, to be paid into treasury.

§ 52. Whenever any tax charged on lands returned to the comptroller, and the interest thereon, shall remain unpaid, for two years from the first day of May following the year in which the same was assessed, the comptroller shall proceed to advertise and sell such lands in the manner hereinafter provided.

Lands whereto be sold.

§ 53. He shall make out a list or statement of the lands charged with such tax and interest, and so liable to be sold ; and shall cause

List of lands.

TITLE 3. so many copies thereof to be printed, as shall be sufficient to furnish each county treasurer with at least five copies, and each town clerk with at least two copies : and shall transmit to each county treasurer such number of the said copies, as shall be equal to five copies for such county treasurer, and two copies for each town clerk in his county.

Agents to distribute.

§ 54. The comptroller may employ agents or messengers to transmit to such of the county treasurers as he may think proper, the copies of such lists of lands, liable to be sold for taxes ; and the agents or messengers so employed, shall require of each county treasurer to whom they shall deliver such copies, an acknowledgment, in writing, of the receipt thereof, which acknowledgments shall be delivered by such agents or messengers to the comptroller, at least eighteen weeks before the commencement of the sale of the lands, mentioned in such lists.

Compensation.

§ 55. The reasonable compensation of such agents or messengers, shall be fixed by the comptroller, and paid out of the treasury ; but the same shall not, in any case, exceed the amount of postage which would have been charged on the copies transmitted by such agents or messengers, if they had been transmitted by mail.

Expense of printing, &c.

§ 56. The expenses incurred by the state, in printing and transmitting any list of lands liable to be sold for taxes, and in publishing notices of sale, shall be charged on the lands mentioned in such list ; and shall be apportioned among the several tracts or parcels of such land, in the same proportions which the tax charged on each tract or parcel, bears to the aggregate amount of such taxes.

Duty of county treasurer.

§ 57. The county treasurers shall retain in their offices, five of the copies transmitted to them ; and shall permit all persons, at all reasonable hours, to examine the same ; and shall cause the remaining copies to be delivered to the town clerks.

His expenses.

§ 58. The expenses which may be incurred by the county treasurer, in the transmission of such lists, shall be audited and paid as contingent expenses of the county.

Duty of town clerk.

§ 59. Every town clerk to whom such copies shall be delivered, shall give notice, at the opening of every town-meeting for the election of town officers, that lists of all lands advertised for sale for taxes by the comptroller, are deposited in his office, and that they may be there seen and examined, at all reasonable hours, free of expense.

Notice of sale.

§ 60. After transmitting such lists to the several county treasurers, the comptroller shall cause to be published, once in each week, for seventeen weeks successively, in at least two of the public newspapers published in each of the senate districts of this state, a general notice, stating that a list of all the lands liable to be sold for taxes,

has been forwarded to each of the county treasurers and town clerks in this state; and that so much of the said lands as may be necessary to discharge the taxes, interest and charges, which may be due thereon at the time of sale, will, on a day to be mentioned in such notice, and on the succeeding days, be sold at public auction, at the Capitol in the city of Albany.

ART. 3.

§ 61. Every printer to whom such notice shall be transmitted for publication, shall, within twenty days after the last publication thereof, transmit to the comptroller an affidavit of due publication, made by some person to whom the fact of publication shall be known.

Duty of printer.

§ 62. Whenever the comptroller, preparatory to a sale of lands for taxes, shall deem it necessary, in order to test the correctness of the descriptions thereof, he may apply to the board of supervisors of any county, for maps of any tracts of land charged with taxes, and returned from such county; and the board of supervisors to whom such application shall be made, shall furnish such maps, at the expense of the county, if they can be procured; and if not, they shall then furnish such descriptions of the lands, as they can obtain, with a statement of the quantity in each subdivision, if the same be divided.

Comptroller may require maps.

§ 63. On the day mentioned in the notices, the comptroller shall commence the sale of such lands, and shall continue the same from day to day, until so much of each parcel assessed, shall be sold, as will be sufficient to pay the taxes, interest and charges thereon.

Proceedings at sale.

§ 64. The purchasers at such sales, shall pay the amount of their respective bids, to the treasurer, within forty-eight hours after the sale; and if any such purchaser shall refuse or neglect to pay the same, within that time, the comptroller shall state an account against him, and shall deliver it to the attorney-general, who shall be entitled to recover the same from the purchaser, by action in the name of the people of this state; and for that purpose, he shall forthwith cause a suit to be instituted therefor.

Ib. payments.

§ 65. After such payment shall have been made, the comptroller shall give to the purchaser of any such lands, a certificate, in writing, describing the lands purchased, the sum paid, and the time when the purchaser will be entitled to a deed.

Certificate.

§ 66. The owner or occupant of any land sold for taxes, or any other person, may redeem the same at any time within two years after the last day of such sale, by paying to the treasurer, for the use of the purchaser, his heirs or assigns, the sum mentioned in his certificate, with interest at the rate of ten per cent. per annum, from the date of such certificate.

Owner may redeem.

§ 67. Any person claiming an undivided part of any tract, lot or piece of land sold for taxes, may redeem the same, on paying such

Redemption of part.

TITLE 3. proportion of the purchase money and interest as he shall claim of the lands sold.

1b § 68. Any person claiming an undivided share in any tract, or lot of land out of which an undivided part shall have been sold for taxes, may redeem his undivided share, by paying such proportion of the purchase money and interest, as he shall claim of the lands sold.

1b. § 69. Any person claiming a specific part of any tract, lot or piece of land sold for taxes, may redeem his specific part, by paying such proportion of the purchase money and interest, as his quantity of acres shall bear to the whole quantity of acres sold.

1b. § 70. Any person claiming a specific part of any tract or lot of land, out of which an undivided part shall have been sold for taxes charged on the whole tract or lot, may redeem his specific part, by paying such proportion of the purchase money and interest, as his quantity of acres shall bear to the whole quantity taxed.

1b. § 71. Any person claiming a specific part of any tract or lot of land, out of which a specific part belonging to some other person, shall have been sold for taxes charged on the whole tract or lot, may exonerate himself from all liability to contribute to the owner of the part sold, by paying into the treasury, at any time before the expiration of the time allowed for redemption, such proportion of the purchase money and interest, as his quantity of acres shall bear to the whole quantity taxed; and such payment shall operate as a redemption of a proportionate part, according to the amount paid, of the land sold.

1b. § 72. In every case of a partial redemption, pursuant to either of the last five sections, the quantity sold shall be reduced in proportion to the amount paid on such partial redemption; and the comptroller shall convey accordingly.

Lands of one person, sold for taxes of him and another. § 73. Whenever the lands of any one person shall be sold for taxes assessed conjointly on the lands of such person and the lands of another person, and such other person shall not pay his due proportion under the seventy-first section of this Title, the person whose lands shall be sold, may redeem the same, on paying the purchase money and interest; and he shall be entitled to recover from such other person whose lands were assessed with his, a just proportion of the redemption monies so paid, with lawful interest from the time of such redemption; but no suit shall be brought for the recovery of such proportion, until after the expiration of the time allowed for redemption.

1b. § 74. If such owner shall not redeem the land sold, and the same shall be conveyed by the comptroller, such owner may recover from such other person the same proportion of the value of the land sold and conveyed, that he ought to have paid of the tax, interest and charges for which the land shall have been sold.

§ 75. Every judgment obtained under either of the two last sections, shall have priority as against the lands of the defendant therein on which the tax was assessed, and for which such proportional part ought to have been paid, to all mortgages executed, and all judgments recovered, since the twenty-third day of April, eighteen hundred and twenty-three.⁵

ART. 3.
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 lb.

§ 76. The comptroller shall, at least six months before the expiration of the two years, cause to be published at least once a week, for six weeks successively, in all the public newspapers printed in this state, and in such form as he shall deem best calculated to give general notice, a notice that unless the lands sold shall be redeemed by a certain day, they will be conveyed to the purchaser.

Notice to re-
 deem.

§ 77. In addition to such notice, the comptroller shall also, at least six months before the expiration of the two years, prepare a separate notice for each county in which there shall then appear to be any lands sold for taxes, and unredeemed; specifying particularly every parcel remaining unredeemed, and the amount necessary to redeem the same, calculated to the last day on which such redemption can be made.

Further no-
 tice.

§ 78. He shall transmit such notices, by mail, at the expense of this state, to the respective county treasurers, who shall forthwith cause the same to be published once a week, for at least six weeks successively, in at least one of the public newspapers printed in their respective counties, such publication to be in the body of the newspaper, and not in a supplement; and the board of supervisors of the respective counties, shall audit and pay the expense of such publications. Each county treasurer shall keep the original notice in his office, and shall permit it to be examined, at all reasonable hours, free of expense.

How distri-
 buted and
 published.

§ 79. If no newspaper be published in the county, the county treasurer shall make two fair copies of such notice, one of which he shall affix to the door of the court-house, and the other he shall deliver to the clerk of the county, who shall suspend it in some conspicuous place in his office, and shall permit all persons, at all reasonable hours, to examine the same free of expense.

lb.

§ 80. If no person shall redeem such lands within such two years, the comptroller shall at the expiration thereof, execute to the purchaser, his heirs or assigns, in the name of the people of this state, a conveyance of the real estate so sold, which shall vest in the grantee an absolute estate, in fee simple, subject, however, to all the claims which the people of this state may have thereon for taxes or other liens or incumbrances.

Conveyance
 of land sold.

(5) See General Index, Title *Judgments*.

TITLE 3
 How execut-
 ed.

§ 81. Such conveyance shall be executed by the comptroller under his hand and seal, and the execution thereof shall be witnessed by the deputy comptroller, surveyor-general or treasurer, and shall be conclusive evidence that the sale was regular, according to the provisions of this Chapter.

Comptroller
 when to bid.

§ 82. It shall be the duty of the comptroller to bid in for the state, at any sale of lands for taxes, every lot of land by him put up, for which no person shall offer to bid; and certificates of such sales shall be made by the comptroller, which shall describe the lands purchased and specify the time when the people of this state will be entitled to a deed. Such purchases shall be subject to the same right of redemption as purchases by individuals, and if the lands sold shall not be redeemed, the comptroller shall execute a release therefor, to the people of this state, which shall have the same effect and become absolute in the same time, and on the performance of the like conditions, as in the case of conveyances to individuals.

Grantee, if
 land is occu-
 pied, to give
 notice.

§ 83. Whenever any land sold for taxes by the comptroller, and conveyed as herein before provided, shall, at the time of conveyance, be in the actual occupancy of any person, the grantee to whom the same shall have been conveyed, or the person claiming under him, shall serve a written notice on the person occupying such land, stating in substance, the sale and conveyance, the person to whom made, and the amount of the consideration money mentioned in the conveyance, with the addition of thirty-seven and an half per cent. on such amount, and the further addition of the sum paid for the comptroller's deed; and stating also, that unless such consideration money and the said thirty-seven and an half per cent. together with the sum paid for the comptroller's deed, shall be paid into the treasury for the benefit of such grantee, within six months after the service of such notice, that the conveyance of the comptroller will become absolute, and the occupant and all others interested in the land, be forever barred from all right or title thereto.

Service of
 notice.

§ 84. Such notice may be served personally, or by leaving the same at the dwelling-house of the occupant, with any person of suitable age and discretion, belonging to his family.

Occupant
 may redeem.

§ 85. The occupant, or any other person, may at any time, within the six months mentioned in such notice, redeem the said land, by paying into the treasury such consideration money, with the addition of thirty-seven and an half per cent. thereon, and the amount that shall have been paid for the comptroller's deed; and every such redemption shall be as effectual as if made before the conveyance of the lands sold.

ib.

§ 86. The receipt of the treasurer, countersigned by the comptroller, and accompanied by a certificate of the comptroller, under

his hand and seal of office, stating the payment, and showing particularly what land such payment is intended to redeem, shall be evidence of such redemption. ART. 3.

§ 87. In every such case of actual occupancy, the grantee, or the person claiming under him, in order to complete his title to the land conveyed, shall file with the comptroller, the affidavit of some person, who shall be certified as credible, by the officer before whom such affidavit shall be taken, that such notice as is above required, was duly served, specifying the mode of service. Affidavit to perfect title.

§ 88. If the comptroller shall be satisfied by such affidavit, that the notice has been duly served, and if the monies required to be paid for the redemption of such land, shall not have been paid into the treasury, he shall certify the fact, and the conveyance before made by him shall thereupon become absolute; and the occupant and all others interested in the said lands, shall be forever barred of all right and title thereto.

§ 89. Whenever the comptroller shall discover, prior to the conveyance of any lands sold for taxes, that the sale was, for any cause whatever, invalid and ineffectual to give title to the lands sold, he shall not convey the lands so improperly sold, but shall forthwith cause the purchase money and interest thereon, to be refunded out of the treasury, to the purchaser, his representatives or assigns. Proceedings if sale be invalid.

§ 90. If the error originated in the county or town officers, the sum so paid shall be a charge against the county from which the tax was returned, and the board of supervisors shall cause the same to be assessed, levied, collected and paid to the treasurer of this state.

§ 91. If the discovery that the sale was invalid, shall not be made, until after a conveyance shall have been executed by the comptroller for the lands sold, it shall be the duty of the comptroller, on receiving satisfactory evidence thereof, to refund out of the treasury, to the purchaser, his representatives or assigns, the purchase money and interest thereon; and to re-charge the county from which the tax was returned, with the amount of the tax and interest, at the rate of seven per cent. from the time interest was charged thereon by him, and such county shall cause the same to be levied and paid as provided in the last section.

§ 92. The expenses attending sales for taxes, including a due portion of the expenses of publishing lists and notices, and transmitting copies of lists, shall be a charge on the lands out of which the sales are made; and an equal part of such expense shall be added to the taxes, interest and other charges, on each parcel of land out of which a sale may be made. Expenses of sales, &c.

TITLE 3.
 Monies from
 sales, how
 applied, &c.

§ 93. The monies received upon every such sale for taxes and interest, and also for the expenses of sale, shall be paid into the treasury; and the accounts of persons entitled to any portion of the monies so received for such expenses, shall be audited by the comptroller, and paid out of the treasury.

TITLE IV.

REGULATIONS CONCERNING THE ASSESSMENT OF TAXES ON INCORPORATED COMPANIES, AND THE COMMUTATION OR COLLECTION THEREOF.

- Sec. 1. Monied corporations, deriving income or profit, liable to taxation.
2. Officers of such company to deliver statement annually to assessors; contents.
 3. A like statement to be delivered to comptroller.
 4. Forfeiture of \$250 for omitting to furnish such statements.
 5. If company be prosecuted therefor, terms on which suit may be discontinued.
 6. Assessors to enter such companies and their property in assessment roll.
 7. Value of stock of certain companies, to be inserted in assessment roll.
 8. Value of stock may be reduced by affidavit.
 9. Company not in the receipt of any income, not to be taxed.
 10. Stock of companies to be taxed as other property of the county.
 11. Certain companies may commute for their taxes.
 12. Certain companies to be exempted from taxation.
 13. Officers of company claiming exemption, to make affidavit as to income, &c.
 14. Affidavit required from company electing to commute.
 15. Assessments on companies to be set down in 5th column of corrected roll.
 16. Supervisors to send names of companies liable to taxation, to comptroller, &c.
 17. Taxes on companies to be demanded of president, &c.; if not paid, how collected.
 18. To be paid out of the funds of the company.
 19. If collector cannot collect tax, to return same to county treasurer, &c.
 20. County treasurer to certify facts to comptroller; taxes how to be credited.
 21. Duty of comptroller and attorney-general, as to companies neglecting to pay.
 22. Chancellor to order sequestration of property, &c. to satisfy taxes and costs.
 23. Attorney-general may also recover by action at law, such tax with costs.

Companies
 liable to tax-
 ation.

§ 1. All monied or stock corporations deriving an income or profit from their capital, or otherwise, shall be liable to taxation on their capital, in the manner herein after prescribed.

Officers to
 deliver state-
 ments to as-
 sessors.

§ 2. The president, cashier, secretary, treasurer, or other proper officer, of every such incorporated company, shall, on or before the first day of July in each year, make and deliver to the assessors, or one of them, of the town or ward in which such company is liable to be taxed, according to the provisions of the sixth section of the second Title of this Chapter, a written statement, specifying,

1. The real estate, if any, owned by such company, the towns or wards in which the same is situated, and the sums actually paid therefor:
2. The capital stock actually paid in and secured to be paid in, excepting therefrom the sums paid for real estate, and the amount of such capital stock held by the state, and by any incorporated literary or charitable institution: And,
3. The town or ward in which the principal office or place of transacting the financial business of such company, is situated; or if there

be no such principal office, the town or ward in which its operations are carried on, or in which it is liable to be taxed, under the provisions of this Chapter. TITTLE 4.

§ 3. The president or other proper officer of every such company, shall also deliver to the comptroller, on or before the first day of July in each year, a written statement, containing the same matters required by the foregoing section, to be specified in the statement to be delivered to the assessors. The statements required by this and the preceding section of this Title, shall be certified under the oath of the said president or other proper officer, to be in all respects just and true. And to comptroller.

§ 4. If the statements above required, or either of them, shall not be furnished by any company to the assessors and to the comptroller, within thirty days after the time above provided, the company neglecting to furnish such statements, or either of them, shall forfeit to the people of this state, for each statement omitted to be furnished, the sum of two hundred and fifty dollars : and it shall be the duty of the comptroller to furnish the attorney-general with an account of all companies that shall neglect to render such lists, that he may prosecute for the penalties hereby imposed. Penalty.

§ 5. If any company, that shall be prosecuted for any such penalty, shall pay the costs of prosecution and furnish the statement required, the comptroller, if he shall be satisfied that the omission was not wilful, may, in his discretion, discontinue such suit. Suit therefor.

§ 6. The assessors shall enter all incorporated companies from which such statements shall have been received by them, and the property of such companies, and the property of all other incorporated companies, liable to taxation in their respective towns, in their assessment rolls, in the following manner : Companies, how assessed.

1. They shall insert in the first column of their assessment rolls, the name of each incorporated company in their respective towns or wards, liable to taxation on its capital, or otherwise ; and under its name, they shall specify the amount of its capital stock paid in, and secured to be paid in ; the amount paid by such company for real estate, then belonging to such company, wherever the same may be situated ; and the amount of its stock, if any, belonging to the state, and to incorporated literary and charitable institutions.

2. In the second column, they shall enter the quantity of real estate owned by such company, and situated within their town or ward ; and in the third column, the actual value thereof, estimated as in other cases.

3. In the fourth column, they shall enter the capital stock of every incorporated company, (excepting manufacturing and turnpike corporations, and marine insurance companies,) paid in, and secured to be paid in ; after deducting the sums paid out for all the real estate of

TITLE 4. such company, wherever the same may be situated, and then belonging to it, and the amount of stock, if any, belonging to the people of this state, and to incorporated literary and charitable institutions.

Valuation of stock. § 7. The assessors shall insert in the column mentioned in the preceding section, the cash value of the stock of all manufacturing and turnpike corporations, (to be ascertained by the assessor, by the sales of the stock, or in any other manner,) deducting therefrom the items mentioned in the preceding section; which value, thus ascertained, together with the value of the real estate of such corporations, shall constitute the amount on which the tax of such corporations shall be levied.

Preceding section extended. § 8. The provisions of the fifteenth section of the second Title of this Chapter, shall be, and are hereby extended to the incorporated companies in the two preceding sections named; and the president, secretary, or other proper officer, may make the affidavit required by said section.

Company, when to be exempted. § 9. If the president or other proper officer of any incorporated company named in the assessment roll, shall show, to the satisfaction of the board of supervisors, at their annual meeting, within two days from the commencement thereof, by the affidavit of such officer, to be filed with the clerk of the board, that such company is not in the receipt of any profits or income, the name of such company shall be stricken out of the assessment roll, and no tax shall be imposed upon it. And the assessment of every monied or stock corporation, authorised to make dividends on its capital, from which no such affidavit shall be received, shall be conclusive evidence, that such corporation was liable to taxation, and was duly assessed.

Stock, how assessed. § 10. The capital stock of every company liable to taxation, except such part of it as shall have been excepted in the assessment roll, and by the previous sections of this Title, shall be assessed and taxed in the same manner as the other real and personal estate of the county, unless such company shall be entitled to commute under the next section, and shall elect so to do; in which case, no tax shall be imposed by the board of supervisors on the property of such company.

Commutation. § 11. All companies employed wholly or principally in manufacturing, and all marine insurance companies, whose nett annual income shall not exceed five per cent. on the capital stock paid in, and secured to be paid in, shall be entitled to commute for their taxes, by paying directly to the treasurer of the county in which the business of the company is transacted, five per cent. upon all such nett income made by such company during the preceding year.

ib. § 12. All turnpike, bridge, or canal companies, whose nett annual income shall not exceed five per cent. on the capital stock paid in, and secured to be paid in, shall be exempted from taxation.

Certain companies exempt.

§ 13. To entitle any such company to the exemption aforesaid, the president and secretary, or some two officers of the company, shall make affidavit, stating the capital stock paid in, and secured to be paid in, together with the income and profits, and the total expenditures, during the preceding year, of such company ; which affidavit shall be delivered to the assessors of the town, at the time of making their assessments.

TITLE 4.
Requisites to exemption.

§ 14. The president, or other proper officer of each company electing to commute, shall make affidavit before some officer authorised to take affidavits, stating the amount of such nett income ; and on filing the same with the clerk of the board of supervisors, at their annual meeting, within two days from the commencement thereof, accompanied by the receipt of the county treasurer, acknowledging the payment of the proper commutation, such board of supervisors shall impose no tax on the property of such company.

§ 15. The amount of taxes assessed on all incorporated companies liable to taxation, and not electing to commute, shall be set down by the board of supervisors, in the fifth column of the corrected assessment roll, and shall form a part of the monies to be collected by the collector.

Taxes to be stated and collected.

§ 16. The board of supervisors having completed the assessment, shall transmit to the comptroller, with the aggregate valuations of the real and personal estate in their county, a statement, showing the names of the several incorporated companies liable to taxation in such county ; the amount of the capital stock paid in, and secured to be paid in, by each ; the amount of real and personal property of each, as put down by the assessors, or by them ; and the amount of taxes assessed on each. In those counties in which there is no such company, the boards of supervisors shall certify such fact to the comptroller, with their returns of the aggregate valuations of real and personal estate.

Duty of supervisors.

§ 17. The collector shall demand payment of all taxes assessed on incorporated companies, from the president, or other proper officer, of such companies, and if not paid, shall proceed in the collection and payment thereof, in the same manner as in other cases, and shall be liable to the same penalties for the non-payment of monies collected by him. And the collector's receipt shall be evidence of the payment of such tax.

Duty of collector.

§ 18. Such taxes shall be paid out of the funds of the company, and shall be rateably deducted from the dividends of those stockholders whose stock was taxed, or shall be charged upon such stock, if no dividends be afterwards declared.

Taxes how paid.

§ 19. If the collector shall not be able to collect any tax assessed upon an incorporated company, he shall return the same to the county treasurer, and at the same time, make affidavit before the county

Proceedings if taxes cannot be collected.

TITLE 5. treasurer, or some other officer authorised to administer oaths, that he had demanded payment thereof from the president, or other proper officer of the company, and that such officer had refused to pay the same, or that he had not been able to make such demand, as the case may be; and that such company had no personal property, from which he could levy such tax.

ry. § 20. The county treasurer shall thereupon certify such facts to the comptroller, who shall pass to the credit of such county treasurer the amount of all taxes so returned and certified, as in the cases of taxes on the lands of non-residents.

Attorney-general to file bill in chancery. § 21. The comptroller shall furnish the attorney-general, with the names of all companies refusing or neglecting to pay the taxes imposed on them, with the amount due from them respectively; and the attorney-general shall thereupon file a bill in the court of chancery, against every such company, for the discovery and sequestration of its property.

Powers of chancellor. § 22. The chancellor, on the filing of such bill, or on the coming in of the answer thereto, shall order such part of the property of such company to be sequestered, as he shall deem necessary for the purpose of satisfying the taxes in arrear, with the costs of prosecution; and he may also, at his discretion, enjoin such company, and the officers thereof, from any further proceedings under their act of incorporation, and may order and direct such other proceedings, as he shall deem necessary, to compel the payment of such tax and costs.

Further remedy. § 23. The attorney-general may also recover such tax, with costs, from such delinquent company, by action in any court of record in this state.

TITLE V.

MISCELLANEOUS PROVISIONS OF A GENERAL NATURE.

- Sec. 1. Town and city clerks annually to return names of assessors and collectors.
 2. Delinquent town clerks and assessors to be reported to comptroller and prosecuted.
 3. Bonds, notes, &c. sent to this state for collection, not to be taxed.
 4. When tenant paying tax, may sue therefor or retain out of rent.
 5. Losses sustained by default of collector or treasurer, on whom chargeable.
 6. Comptroller to cancel certain erroneous charges of U. S. direct tax.
 7, 8 & 9. Proceedings by comptroller and other officers, to insure correct returns.
 10. Certificates and conveyances executed by comptroller, may be recorded, &c.
 11. Sales of lands for taxes for opening roads, how to be made.
 12 & 13. Comptroller to send forms, &c. to county treasurers, to be distributed by them.
 14. Comptroller to cause copies of this Chapter to be printed and distributed.
 15. Punishment of officers, for wilfully neglecting the execution of this Chapter.

Duty of town and city clerks.

§ 1. The clerks of the cities of New-York, Albany, Hudson, Schenectady and Troy, and the town clerks of the several towns, shall yearly, before the first day of October, in each year, certify and deliver to the supervisors of their respective towns, the names of all the assessors and collectors in their respective cities and towns, and the

same shall be delivered to the board of supervisors, at their next meeting. TITLE 5
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§ 2. The boards of supervisors of the several counties, at every annual meeting, shall transmit to the comptroller the names and places of abode of the town clerks and assessors, in their respective counties, who shall have wilfully refused or neglected to perform the duties required of them in this Chapter; and the comptroller shall thereupon give notice to the district attorneys of the proper counties, to the end that they may prosecute such delinquent town clerks and assessors, for the penalties incurred by them. Duty of board of supervisors

§ 3. When any bond, mortgage, note, contract, account or other demand, belonging to any person not being a resident of this state, shall be sent to this state for collection, or shall be deposited in this state for the same purpose, such property shall be exempt from taxation; and nothing contained in this Chapter shall be construed to render any agent of such owner liable to be assessed or taxed for such property; but every such agent shall be entitled to have any such property deducted from his assessment, upon making affidavit, before the assessors at the time appointed by them for reviewing their assessments, that such property belongs to a non-resident owner, and therein specifying his name and residence.<sup>6</sup> Bonds, &c. sent to this state for collection, not to be taxed.

§ 4. When the tax on any real estate shall have been collected of any occupant or tenant, and any other person, by agreement, or otherwise, ought to pay such tax, or any part thereof, such occupant, or tenant, shall be entitled to recover, by action, the amount which such person ought to have paid; or to retain the same from any rent due, or accruing from him to such person, for the land so taxed. Remedy of tenant for taxes paid.

§ 5. All losses which may be sustained by the default of the collector of any town or ward, shall be chargeable on such town or ward. All losses which may be sustained by the default of the treasurer of any county, in the discharge of the duties imposed by this Chapter, shall be chargeable on such county. And the several boards of supervisors shall add such losses, to the next year's taxes of such town or county. Losses by collectors or county treasurer.

§ 6. Whenever it shall appear to the comptroller, that any charge of arrears of the direct tax of the United States, returned to his office as unpaid, has been paid to any of the collectors of that tax, or that the same lands have been twice charged with the same tax, he shall cancel the erroneous charge on the books of his office. Sales for U. S. direct tax.

§ 7. If, in consequence of having received irregular and imperfect descriptions of the lands of non-residents in any town, the comptroller shall apprehend that irregular or imperfect returns may again be received, he may give notice of such apprehension to the board of su- Comptroller may require correct returns.

(6) Act concerning the Revised Statutes, passed Dec. 10, 1828, § 17.

**TITLE 5.** supervisors of the proper county, at their annual meeting, specifying the several towns in such county, the returns from which will probably require correction.

**Duty of supervisors thereon.** § 8. It shall be the duty of such board of supervisors to require the assessors and the collector of such town, specified in the notice of the comptroller, to meet in such town at such place as shall be designated by the supervisors, within thirty days of the expiration of the time, when the collectors are to make their returns to the county treasurers.

**Of assessors and collectors.** § 9. It shall be the duty of the assessors and collectors to meet pursuant to such requisition. The collectors shall specify to the assessors, the several lots to be returned as non-resident property, by reason of the non-payment of the taxes; and the assessors shall arrange the same according to the provisions of this Chapter, and shall examine the descriptions of the lots; and in case any of them are found erroneous and imperfect, they shall correct the same, conformable to such instructions as may have been received from the comptroller, and the collector shall thereupon return the lots as arranged and described by the assessors, to the county treasurer.

**Comptroller's certificate or deed.** § 10. Every certificate or conveyance executed by the comptroller in pursuance of the provisions of this Chapter, may be recorded in the same manner, and with the like effect, as a deed regularly acknowledged or proved, before any officer authorised by law, to take the proof and acknowledgment of deeds.

**Sales for taxes for opening roads.** § 11. All sales of lands charged with taxes in arrear for opening and improving roads within this state, shall be conducted in the manner herein before prescribed; and the owners of the lands sold, shall be allowed to redeem within the same time, and on the same conditions.

**Blank forms and instructions.** § 12. The comptroller shall, from time to time, at his discretion, transmit blank forms of assessment rolls, and of returns of unpaid taxes, to the several county treasurers in this state; together with such instructions as he shall think useful, for the purpose of enforcing the uniform and proper execution of this Chapter.

**Distribution thereof.** § 13. The county treasurers shall distribute such of the said forms and instructions, as shall have been intended for the use of assessors, among the town clerks, in their respective counties, who shall deliver the same to the assessors in their respective towns. The county treasurer shall also transmit or deliver a copy of such forms and instructions to each of the assessors in any county in his county.

**Copies of this Chapter.** § 14. The comptroller shall, from time to time, whenever he shall find it to be necessary, cause to be printed, at the expense of this state, a sufficient number of copies of this Chapter, to furnish one copy to each county treasurer, supervisor, town clerk, assessor and collector within this state; and shall transmit to each county treasurer a suffi-



cient number for his county. Every county treasurer receiving such copies, shall immediately transmit, at the expense of the county, to the clerk of each town therein, five copies, to be distributed by him among the officers entitled thereto; and he shall also transmit or deliver one such copy to each assessor and collector, in every city in his county. TITLE 6.

§ 15. If any of the officers concerned in the execution of this Chapter, shall wilfully neglect or refuse to perform the duties assigned them, such officer shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine or imprisonment, or both, in the discretion of the court. Officers guilty of neglect of duty.

## TITLE VI.

### SPECIAL AND LOCAL PROVISIONS.

Sec. 1, 2 & 3. Special provisions concerning assessment and collection of taxes, in Kings county.

4, 5 & 6. Special provisions concerning collection of taxes in Albany.

7. Collectors of certain towns in Essex county, to receive mileage.

8. Certain cities to be deemed towns under this Chapter.

§ 1. The assessors of the several towns in the county of Kings, shall complete their assessment rolls, on or before the first day of July, in each year; and shall deliver the same, on or before the first day of August, in each year, to the supervisors of their respective towns. Kings county

§ 2. The board of supervisors of the county of Kings, shall deliver their warrants and tax lists to the collectors of the several towns in that county, on or before the first Tuesday of September, in each year; and the collectors shall settle their accounts with the county treasurer, on or before the first Tuesday in November, in each year. ib.

§ 3. The town clerks of the several towns in the county of Kings, shall certify and deliver to the supervisors of their respective towns, between the first Tuesday of May and the first Tuesday of August, in each year, the names of all the assessors and collectors in their respective towns. ib.

§ 4. The time for the collection of taxes in the city and county of Albany, shall be and is hereby extended to the first day of March in every year; and the warrants to the collectors of the several towns and wards of the said city and county, shall be conformed to this provision. Time for collecting taxes in Albany.

§ 5. If any collector, chosen or appointed for any of the wards in the city of Albany, shall, after such election or appointment, die, resign, or remove out of the said city before he shall have entered upon, or completed the duties of his office, or if he shall, by reason of sickness, or other cause, be disabled from performing and completing such Collectors in Albany.

**TITLE 1.** duties, it shall, in every such case, be the duty of the mayor, aldermen and commonalty of said city, to appoint a collector for such ward, for the remainder of the year; who thereupon shall have the same powers and privileges, be subject to the like duties and penalties, and entitled to the same compensation, as the collector in whose place he was so appointed.

**§ 6.** It shall be the duty of such collector, so to be appointed, before he shall enter on the duties of his office, to enter into a bond with the like penalty, and subject to the same condition, as other collectors are required to enter into by law.

**§ 7.** It shall be the duty of the treasurer of the county of Essex, on the settlement of the accounts of the several collectors of the towns of Minerva, Keene, and Schroon, to allow and pay them mileage, to be calculated for every mile necessarily travelled from their respective dwellings, to the office of the treasurer, after the following rates:

1. To the collector of the town of Minerva, thirty-seven and a half cents per mile:
2. To the collectors of the towns of Keene and Schroon, twenty-five cents per mile:

But the sum to be paid to either of the said collectors, shall in no case exceed the sum of four per cent. upon the amount of the tax on the lands of non-residents, returned by such collector to the county treasurer.

What cities deemed towns.

**§ 8.** Every city not divided into wards, for the purpose of choosing supervisors and assessors, shall be deemed to be a town within the provisions of this Chapter.

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## CHAP. XIV.

### Of the Public Health.

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**TITLE 1.**—Of the officers of health in the city of New-York.

**TITLE 2.**—Of quarantine, and regulations in the nature of quarantine, at the port of New-York.

**TITLE 3.**—Internal regulations for the preservation of the public health in the city of New-York.

**TITLE 4.**—Of the marine hospital, and its funds.

**TITLE 5.**—General provisions applicable to the city of New-York.

**TITLE 6.**—Regulations for the preservation of public health in other ports and places of the state.

**TITLE 7.**—General regulations concerning the practice of physic and surgery in this state.

TITLE I.

TITLE I.

OF THE OFFICERS OF HEALTH IN THE CITY OF NEW-YORK.

- Sec. 1 & 2. Board of health continued ; president and members how appointed, &c.  
 3. Who commissioners of health.  
 4 & 5. Duties of health officer ; power to appoint assistant.  
 6 to 11. Duties of resident physician and health commissioner.  
 12 & 13. Salaries and fees of commissioners of health and health officer.  
 14. Consulting physicians, how appointed, and duties.  
 15 & 16. Inspectors of health how appointed ; their fees and duties.

SECTION 1. There shall continue to be a Board of Health in the city of New-York, of which the mayor shall by right of office be president, and the members of which shall, from time to time, be appointed by the common council of the city.<sup>1</sup>

§ 2. In case the mayor shall, from any cause, be unable to attend to the discharge of his duties as a health officer, the board of health may choose one of their own number as president, who shall possess all the powers and perform all the duties of the mayor under this Chapter.

§ 3. The health officer, resident physician, and health commissioner of the city, shall be the commissioners of health.

§ 4. The health officer shall perform all the duties hereafter specified in this Chapter, and such other duties as the board or commissioners of health shall lawfully require.

§ 5. The health officer may appoint an assistant, for whose conduct he shall be responsible, and who may perform all the duties required of the health officer. Such assistant, before he shall enter on the duties of his office, shall take the oath prescribed in the constitution of this state.

§ 6. The resident physician shall visit all sick persons reported to the mayor, or to the board or commissioners of health, and shall perform such other duties as the board of health shall enjoin.

§ 7. The health commissioner, under the direction of the board of health, shall assist the resident physician in the discharge of his official duties.

§ 8. He shall also receive all monies appropriated to the use of the marine hospital, and shall pay all demands against the hospital that shall be approved by a majority of the commissioners of health ; and before he shall enter on the duties of his office, shall execute a bond in the penal sum of five thousand dollars, conditioned for the faithful performance of his trust, and with such sureties as the mayor or recorder of the city shall approve. The bond shall be given to the people of this state, and be filed by the officer taking it, in the office of the clerk of the city and county.

(1) This Chapter was compiled, with various alterations and additions, from the following statutes ; Laws of 1823, p. 64 ; 1824, p. 18, § 2 ; 1827, p. 130, § 24 to 33.

## TITLE 1.

To account  
and deposit  
monies.

§ 9. He shall render to the board of health, a monthly account of his receipts and disbursements on account of the marine hospital, and shall deposit the balance that shall appear to be in his hands, in such bank in the city of New-York, as the board shall designate, to the credit of the commissioners of health.

Monies how  
drawn.

§ 10. The monies so deposited shall not be drawn out, except on the check of the health commissioner, countersigned by the president of the board of health.

Meetings of  
physician  
and commis-  
sioner.

§ 11. In the discharge of their duties, the resident physician and health commissioner, shall meet daily at the office of the board of health, during such part of the year and at such hours of the day, as the board shall designate.

Their sala-  
ries.

§ 12. The resident physician and health commissioner, shall each receive an annual salary of one thousand dollars; and the health officer, as physician of the marine hospital, a like salary of four hundred and fifty dollars; and such salaries shall be paid out of the monies appropriated for the use of the marine hospital.

Fees of  
health off-  
cers.

§ 13. The health officer shall be entitled to receive the following fees for visiting and examining vessels in the discharge of his official duties :

1. For each vessel from a foreign port, six dollars and fifty cents.
2. For each vessel from a place in the United States south of Cape Henlopen, if above one hundred and sixty tons, three dollars; if not exceeding one hundred and sixty, and above one hundred tons, two dollars; if below one hundred tons, one dollar.

And such fees shall be paid by the respective masters of the vessels so visited and examined.

Consulting  
physician.

§ 14. The board of health, may, from time to time, appoint so many consulting physicians as they may deem necessary, designate their duties, and fix their compensation.

Inspector of  
vessels.

§ 15. The board of health shall appoint an inspector of vessels, who shall perform the duties required of him in this Chapter, and shall be entitled to receive the following fees :

His fees.

For each cargo inspected by him under the direction of the board of health, three dollars ;

For each vessel cleansed and purified by him under the like direction, five dollars ;

Which fees shall be paid by the owner or consignee of the cargo inspected or vessel purified.

His duty.

§ 16. It shall be the duty of such inspector, after he shall have performed any service required of him, to make an immediate report of his proceedings and their result, to the board of health, or the mayor and commissioners of health.

TITLE II.

ART. I.

OF QUARANTINE AND REGULATIONS IN THE NATURE OF QUARANTINE, AT THE PORT OF NEW-YORK.

- ART. 1.—Of the place of quarantine, and the vessels and persons subject thereto.
- ART. 2.—Of the duties of pilots in relation to vessels subject to quarantine.
- ART. 3.—Regulations concerning the treatment, conduct and duties of vessels, articles and persons under quarantine.
- ART. 4.—Regulations concerning the treatment and conduct of vessels, articles and persons released from quarantine, or exempt therefrom.
- ART. 5.—Of the regulation of intercourse with infected places.
- ART. 6.—Penalties for violating the provisions of this Title.

ARTICLE FIRST.

*Of the Place of Quarantine, and the Vessels and Persons subject thereto.*

- Sec. 1. Anchorage place at quarantine.
- 2. How designated.
- 3. Vessels subject to quarantine to proceed immediately thereto.
- 4. What vessels subject to quarantine, and how classed.
- 5. Quarantine of classes 1 and 2.
- 6. Regular quarantine of certain vessels in class 3.
- 7. Of class 5, and of certain vessels in class 4.
- 8. Steam vessels excepted from regular quarantine.
- 9. Where no regular quarantine, health officer to prescribe it.
- 10. Certain vessels arriving in other ports, subject to same rules as if arriving direct.
- 11. Vessels, when to be removed from wharves; by whom; how.
- 12. Not to return without permit.
- 13. Certain vessels permitted to pass through the Sound.

§ 1. The anchorage place for vessels at quarantine, shall be as near, as may be, to the marine hospital on Staten-Island. Anchorage ground.

§ 2. The quarantine anchorage shall be designated by buoys, to be fixed under the direction of the health officer, and every vessel subject to quarantine shall anchor within them. How designated.

§ 3. Every vessel in this Article declared to be subject to quarantine, shall, immediately on her arrival, proceed to, and be anchored at, the place then assigned for quarantine; and shall remain there with her officers, passengers and crew, during her quarantine, subject to the examination of the health officer, to the provisions of this Title, and to such regulations as the health officer or board of health shall lawfully impose. Certain vessels to be anchored there.

§ 4. Vessels arriving in the port of New-York are declared to be subject to quarantine, and shall be classed as follows: Vessels subject to quarantine.

1. All vessels from a foreign port, having forty or more passengers, or on board of which, during the voyage, or whilst at the port of departure, any person shall have been sick, arriving between the first day of April and the first day of November in any year.

2. All vessels arriving between the thirty-first day of May and the sixteenth day of October, in any year, from any place, in the ordinary passage from which, they must pass to the south of Cape Henlopen.

## TITLE 3.

3. All vessels from any place, (including islands,) in Asia, Africa, or the Mediterranean, or from either of the West-India, Bahama, Bermuda, or Western islands, or from any place in America, in the ordinary passage from which they must pass south of Georgia, arriving between the first day of April, and the first day of November in any year.

4. All vessels from any place where yellow, bilious malignant, or other pestilential or infectious fever existed at the time of their departure, or on board of which, during the voyage, any case of any such fever shall have occurred, arriving between the first day of April and the first day of November, in any year.

5. All vessels which, if they had arrived direct from their foreign port of departure, would have been included in the fourth class, that shall arrive at any place in the United States, or British North America, and proceed thence to the port of New-York, between the first day of June and the first day of October, in any year.

1b. Classes  
1 and 2.

§ 5. Every vessel included in the first two classes of the preceding section, shall be subject to such length of quarantine, and other regulations, as the health officer shall designate and enjoin.

1b. Class 3.

§ 6. Every vessel included in the third class, which shall arrive between the thirty-first day of May and the first day of October, in any year, shall remain at quarantine for two days, and for such further period as the health officer shall deem expedient; but from the provisions of this section, vessels from Canton and Calcutta are excepted, unless they shall have been at some place in the West-Indies, or in America south of St. Mary's in Georgia, and north of the Equator, or on the continent or islands near the continent of Africa, after the fifteenth day of May, in the year of their arrival.

1b. Class 4.

§ 7. Every vessel in the fourth class, which shall arrive within the days mentioned in the last section, and every vessel in the fifth class, shall remain at quarantine for at least thirty days after her arrival, and in all cases, at least twenty days after her whole cargo shall have been discharged and landed, and shall perform such further quarantine as the health officer shall prescribe.

1b. Steam  
vessels.

§ 8. All vessels subject to a regular quarantine, shall, if navigated by steam, be subject only to such length of quarantine, and other regulations, as the health officer shall enjoin.

1b. Fixed by  
health officer.

§ 9. The quarantine of vessels subject thereto, where no period of regular quarantine is prescribed, shall be limited by the discretion of the health officer; but unless under special circumstances, and with the sanction of the board or commissioners of health, it shall not exceed the time requisite for a due examination of the vessel and cargo, and a compliance with the regulations of this Chapter.

§ 10. Every vessel arriving in the port of New-York coastwise, after the first day of June, which has been to the West-Indies, or America south of Georgia, shall be subject to the same regulations as are imposed on such vessels under similar circumstances, that have arrived direct at the port of New-York.

ART. 2.  
Ib. Const. wise.

§ 11. The mayor of the city of New-York, or the board or the commissioners of health, whenever in their judgment the public health shall require it, may order any vessel at the wharves of the city, or in its vicinity, to the quarantine ground, or other place of safety, and may require all persons, articles or things, landed or introduced into the city from such vessel, to be seized and returned on board, or removed to the quarantine ground. In case the master, owner, or consignee of the vessel can not be found, or shall refuse or neglect to obey the order of removal, the mayor, or the board of health, shall have power so to remove the vessel, at the expense of such master, owner, or consignee.

Vessels how removed from wharves.

§ 12. No vessel, nor person so ordered out, shall return to the city, without the written permit of the board of health, the mayor, or the commissioners of health.

Not to return.

§ 13. If any vessel arriving at the quarantine ground, shall be bound to some port eastward of the city of New-York, and beyond this state, the health officer, after having duly visited and examined her, may permit her to pass on her voyage through the Sound; but no such vessel shall in that case, be brought to anchor off the city, nor shall any of her crew or passengers land in, or hold any intercourse or communication with the city, or with any person therefrom.

When vessels may pass through the Sound.

ARTICLE SECOND.

*Of the Duties of Pilots in relation to Vessels subject to Quarantine.*

Sec. 14. To hail vessels.

15. When to direct them to proceed to quarantine.

16. Duties in conducting vessels into port.

§ 14. It shall be the duty of each branch and deputy pilot belonging to the port, to use his utmost endeavours to hail every vessel which he shall discover to be entering the port, and to demand of the master of every such vessel, whether any person has died or been sick on board, during the passage, and whether any pestilential fever existed, at the time of her sailing, at the port whence she sailed.

To hail vessels.

§ 15. If any of the above questions shall be answered in the affirmative, the pilot shall immediately give notice to the master of the vessel, that he, his vessel, crew, passengers and cargo, are subject to the examination of the health officer; and shall direct him to proceed

Further duty.

**TITLE 4.** such company, wherever the same may be situated, and then belonging to it, and the amount of stock, if any, belonging to the people of this state, and to incorporated literary and charitable institutions.

Valuation of stock.

§ 7. The assessors shall insert in the column mentioned in the preceding section, the cash value of the stock of all manufacturing and turnpike corporations, (to be ascertained by the assessor, by the sales of the stock, or in any other manner,) deducting therefrom the items mentioned in the preceding section; which value, thus ascertained, together with the value of the real estate of such corporations, shall constitute the amount on which the tax of such corporations shall be levied.

Preceding section extended.

§ 8. The provisions of the fifteenth section of the second Title of this Chapter, shall be, and are hereby extended to the incorporated companies in the two preceding sections named; and the president, secretary, or other proper officer, may make the affidavit required by said section.

Company, when to be exempted.

§ 9. If the president or other proper officer of any incorporated company named in the assessment roll, shall show, to the satisfaction of the board of supervisors, at their annual meeting, within two days from the commencement thereof, by the affidavit of such officer, to be filed with the clerk of the board, that such company is not in the receipt of any profits or income, the name of such company shall be stricken out of the assessment roll, and no tax shall be imposed upon it. And the assessment of every monied or stock corporation, authorised to make dividends on its capital, from which no such affidavit shall be received, shall be conclusive evidence, that such corporation was liable to taxation, and was duly assessed.

Stock, how assessed.

§ 10. The capital stock of every company liable to taxation, except such part of it as shall have been excepted in the assessment roll, and by the previous sections of this Title, shall be assessed and taxed in the same manner as the other real and personal estate of the county, unless such company shall be entitled to commute under the next section, and shall elect so to do; in which case, no tax shall be imposed by the board of supervisors on the property of such company.

Commutation.

11.

§ 11. All companies employed wholly or principally in manufacturing, and all marine insurance companies, whose nett annual income shall not exceed five per cent. on the capital stock paid in, and secured to be paid in, shall be entitled to commute for their taxes, by paying directly to the treasurer of the county in which the business of the company is transacted, five per cent. upon all such nett income made by such company during the preceding year.

Certain companies exempt.

§ 12. All turnpike, bridge, or canal companies, whose nett annual income shall not exceed five per cent. on the capital stock paid in, and secured to be paid in, shall be exempted from taxation.



§ 18. In the discharge of this duty, he may put all such questions to the persons on board, as he shall judge necessary and proper, to enable him to ascertain the condition of the vessel, and the length of quarantine to which she ought to be subject; and the persons to whom such questions may be put, shall, if required, answer the same under oath, which the health officer is authorised to administer.

ART. 3.  
His powers.

§ 19. It shall be the duty of the health officer, to make to the board of health, a report respecting every vessel that he shall visit, and containing all such information as may enable the board to determine what measures, in respect to such vessel, ought to be adopted.

To report.

§ 20. Every vessel subject to a regular quarantine of two days, shall, during its quarantine, be thoroughly ventilated and cleansed, and the clothing and bedding of the crew and passengers, be well washed and aired.

Purifying vessels, &c.

§ 21. Captains and passengers, arriving from healthy ports, and in healthy vessels subject to a quarantine of two days, may, on their arrival, be permitted to come into the city, without any baggage.

Who may come to the city.

§ 22. The master, owner, or consignee, of every vessel subject to a regular quarantine of thirty days, shall forthwith, upon the requisition, and under the direction of the health officer, cause such vessel to be unladen, cleansed and purified.

Vessels to be unladen, &c.

§ 23. Every vessel mentioned in the last preceding section, shall, during her quarantine, be at least three times thoroughly white-washed in every part of the inside, except such parts as have been painted or varnished, which shall be purified as the health officer shall direct; and such vessel shall be fumigated with mineral acid gas, when required by the health officer. There shall be an interval of at least four days between each white-washing, and when the weather permits, wind-sails shall be kept in each hatchway of the vessel.

To be white-washed.

§ 24. When the requisitions of the preceding section shall have been complied with, and the regular period of quarantine shall have expired, if the health officer shall judge the vessel clean and free from infection, he shall make a full report of all the circumstances affecting the health of the vessel, and of her actual condition, to the board of health, who may then release the vessel from quarantine.

Vessel when to be released.

§ 25. It shall be the duty of the health officer to cause the cargo of every such vessel, to be landed at the quarantine ground, or at some other suitable place out of the city, and there to be properly ventilated and cleansed, for at least twenty days.

Cargo to be landed, &c.

§ 26. From such ventilation and cleansing, alum, chalk, coals, distilled, expressed and fermented liquors, drugs and medicines, dyewoods, glass, stone and earthen ware, fruit in a sound state, honey,

Certain articles excepted.

**TITLE 2.** ivory, lignum-vitæ, mahogany, metallic substances, marble, oils, paints, resiu, salts, spices, syrups, tar, turpentine, turtle shell, wax, and such other articles of the cargo as may be sufficiently purified by washing with water, or are not liable to retain infection, shall be excepted, if the authority to make such exception, shall have been given to the health officer, by the board of health, or the mayor and commissioners of health.

Cargo when admitted to the city.

§ 27. No portion of such cargo, other than articles excepted under the preceding section, shall be conveyed to the city, without the permit of the board of health, which shall not be given until the health officer, or some special agent approved of by the board of health, shall have reported to the board, that such cargo has been properly ventilated and cleansed, and is in a sound condition, and free from infection.

Crew, passengers, &c. when admitted.

§ 28. None of the officers, passengers or crew of any such vessel, shall proceed to or enter the city, until fifteen days after the sailing of the vessel from her foreign port of departure, nor until fifteen days after the last case of pestilential or infectious fever that shall have occurred on board, nor until ten days after landing at quarantine.

Certain articles to be destroyed.

§ 29. The health officer, if he shall judge it necessary to prevent infection or contagion, may cause any bedding or clothing on board a vessel subject to quarantine, or any portion of her cargo that he may deem infected, to be destroyed.

West-India produce to be landed

§ 30. If there shall be any West-India produce or merchandize, other than such articles as are enumerated in the twenty-sixth section of this Title, or that may be excepted under that section, on board of any coasting vessel subject to quarantine, it shall be the duty of the health officer, (except in the cases mentioned in the next succeeding section,) to order such produce or merchandize to be landed for purification, at the quarantine ground, or at some suitable place out of the city, subject to his orders and regulations, or if not landed at the quarantine ground, to those of the mayor and commissioners of health.

Except in certain cases.

§ 31. The landing of such produce or merchandize from any such vessel, shall not be required, if the master shall exhibit satisfactory proof that it is free from damage, and has been landed in the United States or some British port of North America, more than twenty days; or that the port in the West-Indies where it was shipped, was healthy at the time of such shipment, and that the vessel in which it was imported, was also healthy, from the time of her departure from the United States, or British port of North America, until her return.

Rags, hides, and skins, when landed.

§ 32. All rags, hides and skins, arriving in vessels subject to the examination of the health officer, between the thirty-first day of May

and the first day of October in any year, shall be discharged at the quarantine ground: if the health officer on examination, shall find the articles so discharged to be sound, he may grant a permit for their removal to those parts of the city, where their entry is permitted, unless they shall have arrived under the circumstances mentioned in the next succeeding section. If, in his opinion, such removal would be dangerous to the public health, the health officer shall detain such articles until they shall have been cleansed or purified, or until, in his judgment, they may be removed with safety.

ART. 2.

§ 33. All cotton, all the articles enumerated in the last preceding section, and all other articles in the opinion of the health officer likely to imbibe and retain infection, shall be detained at the quarantine ground, or at some other suitable place without the limits of the city, until the first day of November, if they shall arrive between the thirty-first day of May and the first day of November, in any vessel on board of which any person is, or shall have been sick, of any pestilential or infectious fever during the time the cargo was on board, or which shall have brought such articles from a port, where such fever existed at the time of, or shortly previous to their shipment.

Cotton and other articles to be detained.

§ 34. If in their opinion it shall not be dangerous to the public health, the health officer, the board of health, or the mayor and commissioners of health, may permit such articles to be shipped for exportation by sea, or transportation up the North or East river, in any vessel which shall not approach, whilst loading or when loaded, nearer than three hundred yards to the wharves of the city: and if any vessel so loaded, shall approach nearer to the city, the articles so loaded may be seized and sold by the commissioners of health, for the use of the marine hospital.

When to be shipped.

[See General Index, Title *Distress*.]

§ 35. If any vessel subject to quarantine for less than thirty days, and laden in whole or in part with cotton of the United States or their territories, shall have on board any sick person, the character of whose disease cannot be immediately ascertained, the health officer may detain such vessel and cargo at quarantine, for a term not exceeding ten days; and if, in his opinion, the disease of such sick person is not of a malignant or pestilential nature, he may either release the vessel and cargo from quarantine, or, detaining the vessel, may permit the cotton to be sent directly to the city of New-York, or to be put on board of any vessel, at the wharves of the city, for exportation.

When may be sent to the city.

§ 36. Every vessel subject to quarantine, shall be designated by colours, to be fixed in a conspicuous part of the main shrouds of the vessel, and to remain there until the expiration of her quarantine.

Vessels to have colours.

§ 37. No boat from any outward or inward bound vessel, shall land at the quarantine ground after sunset; nor shall boats of any de-

Boats not to land. &c.

**TITLE 2.** description, at any time, pass through the range of vessels lying at quarantine, without the permission of the health officer.

**Lighters.** § 38. No lighters shall be employed to load or unload vessels at quarantine, but by the permission of the health officer, and subject to such restrictions as he shall impose.

**Vessels not to approach the city.** § 39. No vessel subject to quarantine, shall approach the city of New-York beyond the place assigned for quarantine, without a written permit from the health officer; nor shall any such permit be granted to any vessel or any portion of her cargo, until the requisitions of this Chapter in relation to such vessel or cargo, shall have been complied with.

**Certain bond may be required.** § 40. The health officer, whenever he shall deem it expedient, may require any person placed under quarantine, to execute a bond with such sureties as he shall approve, to the commissioners of health, and their successors in office.

**Its penalty and condition** § 41. The penalty of such bond shall not be less than five hundred, nor more than two thousand dollars, and its condition shall be, that the person executing it, shall not, during his period of quarantine, approach nearer the city-hall in the city of New-York, than the distance of three miles, except in passing the city by water, and that he shall not go into any city or town of the United States, in violation of the quarantine laws thereof.

**When assigned.** § 42. If the person executing such bond, shall break its condition, by visiting any city or town of the United States, other than the city of New-York, the board of health, on the application of the proper authority, may direct such an assignment of the bond to be made, as shall enable the assignee to prosecute thereon, and to apply the penalty thereof, when recovered, to such uses as may be directed, by the quarantine laws of the state, to which such city or town may belong.

**Poor passengers.** § 43. All passengers placed under quarantine, who shall be unable to maintain themselves, shall be provided for by the master of the vessel in which they shall have arrived.

**Id.** § 44. If the master shall omit so to provide for them, they shall be maintained on shore, and the expense of their maintenance be charged to their vessel; nor shall such vessel be permitted to leave the quarantine, until the monies so expended shall have been repaid.

**Sailors, when and how confined.** § 45. The health officer, upon the application of the master of any vessel under quarantine, and his consenting to pay for the maintenance of the offender whilst in custody, may direct to be confined in some suitable place on shore, any mate, sailor, or mariner on board of such vessel, who shall have committed an offence, punishable by the laws of this state or of the United States, and who can not be properly

secured for punishment on board of his vessel. Such confinement shall continue during the residue of the quarantine of the offender, or until he shall be proceeded against in due course of law ; and the expenses of maintaining the offender, shall be charged and paid in the same manner, as the expenses of maintaining poor passengers.

ART. 4.

§ 46. All vessels and persons remaining at quarantine on the first day of October, shall thereafter be subject only to such quarantine and restrictions, as vessels and persons arriving on or after that day.

Quarantine of certain vessels.

ARTICLE FOURTH.

*Regulations concerning the Treatment and Conduct of Vessels, Articles and Persons released from Quarantine, or exempt therefrom.*

Sec. 47. Master to deliver permit ; to whom.

48. Certain vessels not to come within certain bounds.

49. When permits may be granted ; cargo may first be unloaded.

50. Inspector's duties in such case.

51. Vessel to be directed to a wharf ; when and how she may leave it.

52. Cargoes of certain other vessels, under what restrictions introduced into city

53, 54, 55. The same.

56. Cargoes of certain vessels not to be brought into city without permit.

57. Permit, when granted.

58. Certain other vessels not to approach within certain bounds in period fixed.

59. Where case of fever, cargo not to be introduced within certain period.

60. Certain vessels not to come within certain bounds.

61. When permit may be granted ; by whom.

62. No person to enter city until fifteen days after last case of fever.

63. Clothing or merchandize not to be brought into city until purified.

§ 47. The master of every vessel released from quarantine, and arriving at the city of New-York, shall, within twenty-four hours after such arrival, deliver the permit of the health officer, at the office of the mayor and commissioners of health, or to such person as they shall direct.

Master to deliver permit.

§ 48. No vessel subject to a regular quarantine of two days, unless she shall have sailed from some port in the West-Indies, or in America south of Louisiana and north of the equator, before the sixteenth day of May ; or from some port in the United States south of Georgia, before the first day of June in the year of her arrival, shall, when released from quarantine, approach within three hundred yards of that part of the island of New-York which lies southward of Bank-street on the North river, and of Eighth-street on the East river, until after the first day of October, in the year of her arrival ; unless by virtue of a special permission to be granted under the circumstances mentioned in the three next following sections.

Certain vessels restricted to certain bounds.

§ 49. If any such vessel shall have arrived from any place in the Mediterranean, in Asia, in America south of the equator, or from the Madeira, Canary, Cape de Verd, Western, Bermuda or Bahama islands, the mayor and commissioners of health, may, by a special

When excepted.

**TITLE 2** permission in writing, direct her to be hauled to a wharf south of the bounds so prescribed; and in their discretion may first order her cargo, or any portion thereof, to be unloaded, subject to their orders and regulations.

**Inspector's duty.** § 50. Where such order for unloading the cargo, shall have been made, the inspector of vessels, after such vessel shall have been unloaded, shall see that the vessel and ballast are properly cleansed, and when the same are duly cleansed and purified, shall make his report to the mayor and commissioners of health.

**Vessel to be located.** § 51. The mayor and commissioners of health, may then direct the vessel to such wharf as they may deem proper; and no vessel being at a wharf pursuant to such direction, shall, without their permission in writing, depart thence, or change her birth, until the first day of the ensuing October.

**Certain cargoes may be landed.** § 52. If any coasting vessel subject to a regular quarantine of two days, shall be wholly laden with lumber or timber, the mayor and commissioners of health may permit her cargo to be discharged at any wharf they shall designate; but after such discharge, such vessel shall be subject to all restrictions in the preceding sections in this Article contained.

**Certain vessels may come to the wharves.** § 53. Any vessel which has been regularly employed in trading to one port or island in the West-Indies, or America south of Georgia and north of the equator, for the period of twelve months, immediately preceding her arrival at the port of New-York, and the port or island being free from any yellow, bilious-malignant or any pestilential or infectious fever, as well as the crew and passengers, and having performed her regular quarantine of two days, and been properly ventilated, and permitted by the health officer to proceed to the stream, three hundred yards from the city, may be permitted by the mayor and commissioners of health, to come to the wharf with her cargo on board, on and after the first day of October, provided the cargo in their opinion is of a harmless character.

**1b.** § 54. Any new vessel, or any other vessel not employed before in the West-India, or Southern trade, south of Georgia, shall be subject to the same regulations as mentioned in the last preceding section, if employed in such regular trade, although she may be so employed for a less period than one year, provided she is in all other respects similarly circumstanced.

**1b.** § 55. All vessels from the West-India islands, and America south of Georgia and north of the equator, being healthy and from healthy ports, after performing two days quarantine, and being properly ventilated, and being permitted by the health officer to come to the stream, three hundred yards from the city, may, after their cargoes shall have

been discharged, and the vessel well cleaned and purified, be permitted by the mayor and commissioners of health, to come to such wharf as they may designate, to receive their outward cargoes, at any time after the first of October. ART. 4.

§ 56. If any vessel subject to a regular quarantine of two days, shall have arrived from any place in the West-Indies, or in America south of Georgia and north of the equator, or from any place on the continent, or the islands near the continent of Africa; or shall have been at any of the places so enumerated, after the fifteenth day of May, in the year of her arrival, no portion of her cargo shall be brought into the city, before the first day of October, in the year of her arrival, until it shall have been inspected by an inspector of vessels, unless by a special permission in writing, of the mayor and commissioners of health. Cargoes of certain vessels not to be brought into city, without permit.

§ 57. When such inspector shall have made his report to the mayor and commissioners of health, they may direct such cargo, or any part thereof, to be brought into the city, subject to such regulations as they shall prescribe, or may order it to be landed at some suitable place out of the city, there to be detained at least twenty days and properly ventilated, and then to be brought into the city, subject to their regulations. Permit when granted.

§ 58. No vessel subject to a regular quarantine of thirty days, when permitted to proceed, shall approach within three hundred yards of the city of New-York, between the first day of June and the first day of October, in the year of her arrival. Certain vessels not to approach the city.

§ 59. No cargo or part of the cargo of any vessel, on board of which during her voyage, a case of any pestilential fever shall have occurred, shall be brought into the city of New-York between the first day of June and the first day of November, except by the permission in writing of the board of health. Cargo not to be brought to city.

§ 60. No vessel arriving from any place in the United States north of Cape Henlopen, or in British North America, between the thirty-first day of May and the first day of October in any year, having on board West-India produce, or merchandize, shall approach within three hundred yards of the Island of New-York, southward of the bounds before in this Article prescribed, until permitted by the mayor and commissioners of health, or health officer. Certain vessels not to be brought to city.

§ 61. If the master of any such vessel shall exhibit to the mayor and commissioners of health, such satisfactory proof as is required in the thirty-first section of this Title, they may permit the vessel to be hauled to any wharf of the city, and such produce or merchandize may be there landed; otherwise it shall be sent to some suitable place out of the city, for purification, subject to their regulations. When may be permitted.

**TITLE 2**  
 Crews, &c.  
 not to enter  
 the city.

§ 62. No person who shall have been one of the crew, or a passenger, in any vessel, at whatever place arriving, on board of which any person shall have been sick of any pestilential fever, shall enter the city of New-York until fifteen days after the last case of such fever that shall have occurred on board such vessel.

Clothing, &c.  
 not to be  
 brought into  
 city.

§ 63. No person shall bring into the city of New-York any clothing, bedding or merchandize, that shall have been on board of any such vessel as is referred to in the last preceding section, until such article shall have been cleansed and purified; and all such articles brought into the city contrary to this section, may be seized and sold by the commissioners of health, for the use of the marine hospital.

#### ARTICLE FIFTH.

##### *Of the Regulation of Intercourse with Infected Places.*

Sec. 64. Proclamation of mayor, &c. of infected places.

65. Period for its ceasing to be fixed; may be extended.

66. Vessels arriving after proclamation, subject to quarantine of at least thirty days.

67. Board of health may regulate internal intercourse with infected place.

Proclamation  
 of infected  
 places.

§ 64. The mayor of the city of New-York, or the president, at the time, of the board of health, may issue his proclamation, declaring any place where there shall be reason to believe a pestilential or infectious fever actually exists, to be an infected place within the meaning of the health laws of this state.

It.

§ 65. Such proclamation shall fix the period when it shall cease to have effect; but such period, if they shall judge the public health to require it, may from time to time be extended by the board of health, and notice of such extension shall be published in one or more of the newspapers of the city.

Consequence  
 of.

§ 66. After such proclamation shall have been issued, all vessels arriving in the port of New-York from such infected place, shall be subject to a quarantine of at least thirty days, and, together with their officers, crews, passengers and cargoes, to all the provisions, regulations and penalties of this Chapter, in relation to vessels subject to a similar quarantine.

Powers of  
 board of  
 health.

§ 67. The board of health may, in their discretion, prohibit or regulate the internal intercourse by land or water, between the city of New-York and such infected place; and may direct, that all persons who shall come into the city of New-York, contrary to their prohibitions or regulations, shall be apprehended and conveyed to the vessel or place whence they last came; or if sick, that they be conveyed to the marine hospital, or such other place as the board of health shall direct.



ARTICLE SIXTH.

ART. 6.

*Penalties for violating the Provisions of this Title.*

Sec. 68. Master violating certain provisions, to be deemed guilty of a misdemeanor ; how punished.

69 & 70. Violating certain other provisions, the same.

71. Giving false information to pilot, landing goods or persons, proceeding beyond quarantine ground, the same.

72. Every person violating certain provisions, the same.

73. Opposing or obstructing health officer in the performance of his duties, the same.

74. Entering quarantine ground, the same.

75. Violating § 87, the same, fine only.

76. Holding intercourse with vessel, the same, fine or imprisonment.

77. May be detained at quarantine.

78. Health officer to give information of such transgression.

79. Master violating § 86, to forfeit certain sum.

80. Every person violating certain provision, the same.

81. Person leaving quarantine, same ; duty of magistrates in such case.

82. Pilot violating Article 2d, punishable for misdemeanor ; fine.

83. Suspension of pilot.

84. Violation of Article 5, misdemeanor ; punishable by fine or imprisonment.

§ 68. Every master of a vessel subject to quarantine, arriving in the port of New-York, who shall refuse or neglect either, Penalties on masters.

1. To proceed with and anchor his vessel at the place, assigned for quarantine, at the time of his arrival :

2. To submit his vessel, cargo and passengers, to the examination of the health officer, and to furnish all necessary information to enable that officer to determine to what length of quarantine and other regulations they ought respectively to be subject :

3. To remain with his vessel at quarantine during the period assigned for her quarantine : and whilst at quarantine, to comply with the directions and regulations of this Chapter, and with such as any of the officers of health, by virtue of the authority given to them in this Chapter, shall prescribe in relation to his vessel, his cargo, himself or his crew :

Shall be considered guilty of a misdemeanor, punishable by fine or imprisonment ; the fine for each offence not to exceed two thousand dollars, nor the imprisonment twelve months.

§ 69. Every such master, who shall violate the provisions of the thirty-ninth and forty-seventh sections of this Title, by refusing or neglecting to comply with any of the directions in those sections respectively contained, shall be considered guilty of the like offence, and be subject for each offence to the like punishment.

§ 70. Every master of a vessel who shall violate the provisions of the thirtieth, thirty-first, sixtieth and sixty-first sections of this Title, by refusing or neglecting to comply with the directions therein contained, or with the orders and regulations of the mayor and commissioners of health by virtue of the authority therein given, shall be considered guilty of the like offence ; the fine not to exceed five hundred dollars, nor the imprisonment six months.

TITLE 2.  
 1b.

§ 71. Every master of a vessel hailed by a pilot, who shall either,  
 1. Give false information to such pilot relative to the condition of his vessel, crew, passengers or cargo, or the health of the place or places whence he came, or refuse to give such information as shall be lawfully required :

2. Or land any person from his vessel, or unlade or transship any portion of his cargo before his vessel shall have been visited and examined by the health officer :

3. Or shall approach with his vessel nearer the city of New-York than the place of quarantine to which he shall be directed :

Shall be considered guilty of the like offence, and for each offence shall be fined in a sum not exceeding five hundred dollars. And every person who shall land from any such vessel, or unlade or transship any portion of her cargo, under the like circumstances, shall be considered guilty of the like offence, and be subject to the like penalty.

Penalties for violating certain provisions.

§ 72. Every person upon whom any duty is or shall be enjoined, or prohibition laid under the following sections, namely, the fourth, sixth, eighth, ninth, tenth, eleventh, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-seventh, twenty-eighth, forty-eighth, forty-ninth, fiftieth, fifty-first, fifty-second, fifty-third, fifty-fourth, fifty-fifth, fifty-sixth, fifty-seventh, fifty-eighth and fifty-ninth sections of this Title, who shall violate any provisions in the sections so enumerated, by refusing or neglecting to obey the directions, regulations or prohibitions therein contained, or such orders and regulations as shall be made by the officers of health therein named under the authority there given, shall be considered guilty of the like offence, and for each offence be fined in a sum not exceeding two thousand dollars, or imprisoned for a term not exceeding twelve months.

Obstructing health officer.

§ 73. Every person who shall oppose or obstruct the health officer in performing the duties required of him in this Title, shall be considered guilty of the like offence ; the fine for each offence not to exceed five hundred dollars, nor the imprisonment three months.

Entering quarantine ground.

§ 74. Every person who, without the authority of the health officer or board of health, shall go within the enclosure of the quarantine ground, shall be considered guilty of the like offence ; the fine for each offence not to exceed one hundred dollars, nor the imprisonment thirty days.

Violating § 37.

§ 75. Every person who shall violate the prohibition of the thirty-seventh section of this Title, shall be considered guilty of the like offence, and be fined for each offence in a sum not exceeding fifty dollars.

Intercourse with vessels.

§ 76. Every person who shall go on board of, or have any communication, intercourse or dealing with any vessel at quarantine, without

the permission of the health officer, shall be considered guilty of a misdemeanor, punishable by fine or imprisonment. ART. 6.

§ 77. Such offender shall also be detained at quarantine so long as the board of health shall direct, not to exceed twenty days, unless he shall be taken sick of some pestilential or infectious disease. When offenders detained.

§ 78. It shall be the duty of the health officer to give immediate information to the board of health, of every such transgression, the circumstances attending it, and the condition of the vessel with which a communication shall have been had, that the board may determine how long the offender ought to be detained at quarantine. Notice of offences.

§ 79. Every master of a vessel who shall not comply with the directions of the thirty-sixth section of this Title, shall forfeit for each offence the sum of fifty dollars, and the further sum of three dollars for every hour he shall so offend. Violating § 30.

§ 80. Every person who shall violate the prohibitions of the sixty-second and sixty-third sections of this Title, shall for each offence forfeit the sum of five hundred dollars. Do. § 62 and 63.

§ 81. Every person under quarantine, shall be subject to the same penalty, who shall elope from or go beyond the bounds assigned to him for his quarantine; and it shall be the duty of every justice of the peace or other magistrate before whom any such offender shall be brought, to order him by warrant to be re-conveyed to the quarantine ground, there to remain for the residue of his term of quarantine. Eloping from quarantine.

§ 82. Every pilot who shall refuse or neglect to perform the duties enjoined on him in any of the provisions contained in the second Article of this Title, shall be considered guilty of a misdemeanor, and shall be fined for each offence in a sum not exceeding two hundred dollars. Penalties on pilots.

§ 83. Whenever the commissioners of health, or either of them, shall charge in writing any pilot with any violation or neglect of duty, the warden of the port shall suspend such pilot from his office, until he shall have entered into a recognizance before some magistrate in the sum of two hundred dollars, and with sufficient sureties, to appear and answer to the offence charged, at the next court of general sessions for the city and county of New-York. Proceedings against pilots.

§ 84. Every person who shall violate the provisions of the fifth Article of this Title, by refusing or neglecting to obey or comply with any order, prohibition or regulation made by the board of health in the exercise of the powers therein conferred, shall be considered guilty of a misdemeanor, punishable by fine or imprisonment, in the discretion of the court by which the offender shall be tried. Violations of Article 5.

## TITLE 3.

## TITLE III.

## INTERNAL REGULATIONS FOR THE PRESERVATION OF THE PUBLIC HEALTH IN THE CITY OF NEW-YORK.

ART. 1.—Of certain duties and powers of the board of health, the mayor and commissioners of health.

ART. 2.—Of the duties of physicians and other persons.

ART. 3.—Prohibitions and penalties.

## ARTICLE FIRST.

*Of certain Duties and Powers of the Board of Health, the Mayor and Commissioners of Health.*

SEC. 1. General powers of the board of health.

2. Its duty in the prevention of diseases.

3. Any thing injurious to public health may be removed or destroyed.

4. May send non-residents to marine hospital.

5. Commissioners must communicate to board of health all reports and information.

Power of the board of health.

§ 1. The board of health shall have power,

1. To appoint from time to time so many health wardens and other officers to carry into effect the provisions of this Title, and the rules and regulations of the board, as they may deem necessary :

2. To authorize such officers, at such times as the board shall think fit, to enter into and examine in the day time, all buildings, lots and places of every description, within the city, and to ascertain and report to the board the condition thereof, so far as the public health may be affected thereby :

3. To give all such directions and adopt all such measures, as in their judgment may be necessary, for cleansing and purifying all such buildings, lots and other places ; and to do or cause to be done every thing in relation thereto, which in their opinion may be proper to preserve the health of the city :

4. To cause any avenue, street, alley or other passage whatever, to be fenced up, or otherwise enclosed, if they shall think the public safety to require it, and to adopt suitable measures for preventing all persons from going to any part of the city so enclosed.

Its duties

§ 2. It shall be the duty of the board of health,

1. To adopt prompt measures to prevent the spreading of a contagious disease, when it shall appear to them by a report of the resident physician or health commissioner, or of a consulting physician, that any person within the city is afflicted with a disease of that character :

2. To forbid and prevent all communications with the house or family so infected, except by means of physicians, nurses or messengers, to carry the necessary advice, medicines and provisions to the afflicted :

3. To adopt such measures for preventing all communication, between any part of the city infected with a fever of a malignant or contagious character, and all other parts of the city, as shall be prompt and effectual : and,

4. To exercise all such other powers, whenever a contagious disease shall appear in the city, as in their judgment the circumstances of the case and the public good shall require. ART. 2.

§ 3. The board of health, or the mayor and commissioners of health, when they shall judge it necessary, may cause any cargo or part of a cargo, or any matter or thing, within the city, that may be putrid or otherwise dangerous to the public health, to be destroyed or removed; such removal, when ordered, shall be to the quarantine ground, or such other place as the board of health shall direct. Putrid articles, &c. to be destroyed.

§ 4. The board of health, the mayor or either of the commissioners of health, may send to the marine hospital, or such other place as the board of health shall direct, all persons in the city, not residents thereof, who shall be sick of any malignant or contagious fever. Persons to be sent to the marine hospital.

§ 5. It shall be the duty of the commissioners of health, from time to time, to communicate to the president of the board of health all reports that shall be made to them, or either of them, under the provisions of this Chapter; and it shall be the further duty of the commissioners, and of each of them, so to communicate all information in their power, that may better enable the board of health to preserve the health of the city. Report to board of health.

ARTICLE SECOND.

*Of the Duties of Physicians and other Persons.*

- Sec. 6. Certain duties of practising physicians; to report patients.
- 7. Do. of keepers of boarding-houses.
- 8. Do. of masters, &c of vessels.
- 9. Do. of commissioners of health and consulting physicians.

§ 6. It shall be the duty of each practising physician in the city of New-York, Physicians.

1. To make a report in writing to the mayor, the board of health, or either of the commissioners of health, of every patient he shall have labouring under yellow, bilious-malignant or other pestilential or infectious fever, between the thirty-first day of May and the first day of November in any year, and within twenty-four hours after he shall ascertain or suspect the nature of the disease:

2. To report, if so directed by the board of health, every patient he shall have between the same days, labouring under fever of any description, and to state in his report, the specific name and type of such fever:

3. To report, when required by the board of health, the death of any of his patients who shall have died of fever, within forty-eight hours after such death shall have occurred, and to state in such report, the specific name and type of such fever.

§ 7. Every person keeping a boarding or lodging-house in the city of New-York, between the days mentioned in the preceding section, Keepers of boarding-houses.

**TITLE 3.** shall report in writing, to the mayor, the board of health, or either of the health commissioners, the name of every seafaring man, boarder, or passenger by sea, who shall be sick in his house with fever, within twelve hours after each case of sickness shall have occurred.

**Masters, &c. of vessels.** § 8. Every master, owner or consignee of a vessel lying at a wharf, or in the harbour of the city of New-York, shall make a like report, and within the same period, of the name of every sick person on board such vessel; and no such person shall be removed therefrom, without a written permit for that purpose from the mayor, the board, or one of the commissioners of health.

**Proceedings for neglect.** § 9. It shall be the duty of each commissioner of health and of each consulting physician, to make an immediate report to the board of health, of the name of every practising physician by whom he shall have reason to believe the provisions of the sixth section of this Title have been violated; and if any such commissioner or consulting physician shall neglect or refuse to perform this duty, the board of health shall suspend him from his office.

### ARTICLE THIRD.

#### *Prohibitions and Penalties.*

- Sec. 10. Respecting salted provisions.**
11. Relative to pickled beef, &c.
  12. Not to apply to small dealers, &c.
  13. All salted provisions, &c. to be reported to mayor.
  14. Board of health may cause such articles to be removed.
  15. Expense of removal to be paid by owner.
  16. Butchers and heads of families excepted.
  17. Violation of these provisions, misdemeanor, &c.
  18. Rags, hides and skins, not to be taken within certain bounds.
  19. Exception as to small quantities.
  20. Master or owner to report damaged cotton.
  21. Under penalty of five hundred dollars.
  22. Persons violating sections one and two, guilty of misdemeanor, &c.
  23. Practising physician violating duties imposed, guilty of misdemeanor, &c.
  24. Do. as to keepers of boarding-houses.

**Salted provisions.** § 10. No salted provisions shall be packed or repacked at any season of the year, in that part of the city of New-York, lying south of a line drawn from the Hudson river through the centre of Canal-street to Sullivan-street, through Sullivan-street to Grand-street, through Grand-street to Walnut-street, and through Walnut-street to the East river.

**19.** § 11. From the first day of May to the first day of October in any year, no salted or pickled beef, pork or fish, except smoked beef, and fish, shall be deposited in the city, south of the line above described.

**Exceptions.** § 12. The last preceding section shall not be construed to prevent retail grocers or other small dealers from keeping on hand, for the use of their customers, small quantities, not exceeding five barrels of each

kind of the provisions therein mentioned, if the provisions so kept be sound and in good order. ART. 3.

§ 13. All salted or pickled provisions, and all hides, skins and cotton, that shall remain deposited in the city, south of the line described in the tenth section of this Title, on the first day of June in any year, shall be reported by the owner or person having charge thereof, to the mayor, the board, or one of the commissioners of health, that the same may be examined, and if necessary, destroyed or removed. To be reported.

§ 14. If such articles, when ordered to be removed by the board of health, shall not be forthwith removed by the owner or person having charge thereof, the board of health shall cause them to be removed to some safe place, there to remain at the risk of the owner. How removed.

§ 15. The expense of the removal and subsequent storage of such articles, shall be borne by the owner or person having charge thereof when removed, and if paid in the first instance by the board of health, may be recovered by them in an action against such owner or bailee, or if payment of such expenses be refused by the owner or bailee, the board may cause such articles to be sold, and account for the proceeds, deducting such expenses and the costs of sale. Expenses.

§ 16. Nothing contained in this Article shall be construed to extend to provisions exposed for sale by butchers in the public markets, or kept by the heads of families for family use. Exceptions.

§ 17. Every person who shall refuse or neglect to obey the directions of this Article, or of the board of health, pursuant thereto, in relation to the provisions and other articles above mentioned, shall be considered guilty of a misdemeanor, and on conviction, shall be fined for each offence in a sum not exceeding five hundred dollars, or be imprisoned for a term not exceeding six months. Penalties.

§ 18. No rags, hides or skins, arriving in the port of New-York, between the thirty-first day of May and the first day of October in any year, shall be taken to any place in the city, south of a line beginning at Spring-street on the North river; thence along that street to the Bowery; thence down the Bowery to Grand-street; and thence through Grand-street to Walnut-street; and thence through Walnut-street to the East river; and all such articles brought into the city contrary to the above provision, may be seized and sold by the commissioners of health, for the use of the marine hospital. Rags, hides and skins, to be kept within certain bounds.

§ 19. The board of health or the mayor and commissioners of health, may however permit sound hides and skins to be brought into the city, south of the line last described, in small quantities, and for the purpose of immediate manufacture, but not otherwise. Exceptions.

## TITLE 4

Duration  
of cotton to be  
reported.

§ 20. It shall be the duty of the master and owner of every vessel that shall have brought cotton into the city, between the first day of May and the first day of November, in any year, and of the owner and consignee of such cotton, if upon examination, it shall appear damaged or otherwise unsound, to make an immediate report thereof to the mayor and commissioners of health.

Penalty for  
violation.

§ 21. Every master or owner or consignee, refusing or neglecting to perform the duties so enjoined, shall, for each offence, forfeit to the commissioners of health, the sum of five hundred dollars.

Disobeying  
order of  
board of  
health.

§ 22. Every person who shall violate any order or direction of the board of health, made or given in the exercise of the powers vested in them by the first and second sections of this Title, shall be considered guilty of a misdemeanor, punishable by fine and imprisonment.

Penalty on  
physicians.

§ 23. Every practising physician, who shall refuse or neglect to perform the duties enjoined on him in the sixth section of this Title, shall be considered guilty of a misdemeanor, and shall forfeit for each offence, the sum of two hundred and fifty dollars, to be sued for and recovered by the board of health.

Penalty on  
keepers of  
boarding-  
houses.

§ 24. Every keeper of a boarding or lodging-house, and every master, owner or consignee of a vessel, who shall refuse or neglect to obey the directions of the seventh and eighth sections of this Title, shall be considered guilty of a misdemeanor, and on conviction shall be fined, for each offence, in a sum not exceeding two hundred and fifty dollars, or be imprisoned for a term not exceeding six months.

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**TITLE IV.**

## OF THE MARINE HOSPITAL AND ITS FUNDS.

SEC. 1. The marine hospital held by commissioners of health.

2. Commissioners have the superintendence ; health officer, physicians

3. Commissioners to furnish boat for health officer.

4. Care of sick persons ; not to be removed without permit.

5. Persons eloping may be apprehended.

6. Expenses to be paid, by whom, and who not liable therefor.

7. Sums payable as hospital money, from whom.

8. Hospital money how applied ; commission for health commissioner.

9. From whom master may recover monies.

10. How monies payable by masters of coasting vessels ; when ; where ; penalty.

11. Commissioners must account to comptroller ; use of surplus.

12. Sums necessary to keep buildings in repair, part of annual expenses ; appropriation of present balance.

Hospital by  
whom held.

§ 1. The hospital erected on the easterly shore of Staten-Island, and the land adjoining thereto, belonging to the state, shall continue to be denominated "the Marine Hospital," and shall, together with all buildings and improvements, made or to be made thereon, be held by the commissioners of health, in trust for the people of this state, for the purposes specified in this Chapter.



§ 2. The health officer shall, by right of office, be physician of such hospital, and the commissioners of health shall, in all other respects, have the superintendence thereof; make rules and orders for its government and management, employ mates, nurses and attendants therefor, and provide bedding, clothing, fuel, provisions, medicine, and such other articles as shall be requisite therein.

TITLE 4.  
Control thereof.

§ 3. The commissioners of health shall, at all times, furnish a convenient boat with sufficient boatmen, for the use of the health officer, the expense of which shall be charged to the funds of the hospital.

Boat.

§ 4. Every sick person sent to the marine hospital, shall be there kept and attended to, with all necessary and proper care; and no such person shall leave the hospital, until the health officer shall grant a discharge in writing.

Sick person how kept, &c.

§ 5. The health officer may direct, in writing, any constable or other citizen to pursue and apprehend any person, not discharged, who shall elope from the hospital, and to deliver such person at the hospital, to be there detained until regularly discharged. It shall be the duty of the constable, or citizen so directed, to obey such directions; and every person who shall so elope shall be considered guilty of a misdemeanor, punishable by fine or imprisonment.

Proceedings against those eloping.

§ 6. All persons sent to the marine hospital, or any other hospital provided by the board of health, other than those who shall have paid hospital money, and such poor persons as the board of health shall exempt, shall pay a reasonable sum for their board, medicine and attendance; and for the recovery of such sum, the commissioners of health may sue in their name of office.

Expenses by whom to be paid.

§ 7. The health commissioner shall demand, and be entitled to receive, and in case of neglect or refusal to pay, shall sue for and recover, in his name of office, the following sums, from the master of every vessel that shall arrive in the port of New-York, namely;

Hospital money who to pay.

1. From the master of every vessel from a foreign port, for himself and each cabin passenger, one dollar and fifty cents; for each steerage passenger, mate, sailor, or mariner, one dollar.

2. From the master of each coasting vessel, for each person on board, twenty-five cents; but no coasting vessel from the states of New-Jersey, Connecticut and Rhode-Island, shall pay for more than one voyage in each month, computing from the first voyage in each year.

§ 8. The monies so received, shall be denominated "hospital monies," and shall be appropriated to the use of the marine hospital, deducting a commission to the health commissioner of two and one half per cent, for collection.

How applied.

## TITLE 5.

How recovered by masters.

§ 9. Each master paying hospital monies, shall be entitled to demand and recover, from each person for whom they shall be paid, the sum paid on his account.

Coasting vessels when to pay.

§ 10. Every master of a coasting vessel, shall pay to the health commissioner, at his office, in the city of New-York, within twenty-four hours after the arrival of his vessel in the port, such hospital monies as shall then be demandable from him, under the provisions of this Title; and every master, for each omission of such duty, shall forfeit the sum of one hundred dollars.

Accounts; surplus.

§ 11. The commissioners of health shall account annually to the comptroller, for all monies received by them, or either of them, for the use of the marine hospital; and if such monies shall, in any one year, exceed the sum necessary to defray the expenses of their trust, including their own salaries, and exclusive of such expenses as are to be borne and paid as a part of the contingent charges of the city of New-York, they shall pay over such surplus to the treasurer of the society for the reformation of Juvenile delinquents in the city of New-York, for the use of that society.

Changes on fund; balance on hand.

§ 12. The sums necessary to keep the buildings and improvements of the marine hospital in good repair, shall be charged as a part of its annual expenses; and the balance of hospital monies, now or hereafter in the hands of the commissioners of health, whether invested in stock, or otherwise, shall remain appropriated to supply any deficiency that may occur, of the annual funds, to meet the annual expenses of the hospital, and to defray the expenses of erecting such other hospitals, or buildings, as the governor shall, from time to time, direct; and no sale of stock shall be made by the commissioners, except by the order of the governor.

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**TITLE V.**
**GENERAL PROVISIONS APPLICABLE TO THE CITY OF NEW-YORK.**

- Sec. 1. Limited provisions may be extended by proclamation.
2. Proclamation may be revoked.
3. To whom fines, &c. payable, and how to be applied.
4. Commissioners to give information to district attorney, of offences.
5. Suits not to abate on death of officers.
6. Provisions of Chapter, how far to extend; not to interfere with common law.
7. Board of health to cause parts of this Chapter to be printed and distributed.
8. Magistrates to aid board of health.

Certain provisions how extended.

§ 1. Whenever it shall appear to the board of health, that any provisions of this Chapter, limited in their operations to a certain period of the year, ought to be extended, the mayor of the city shall issue his proclamation, extending such provisions to such time as shall be mentioned in the proclamation; and such provisions shall thereupon

be extended accordingly, and with the like effect, as if the periods mentioned in the proclamation, had been enacted in this Chapter. TITLE 5.

§ 2. If it shall appear to the board of health, whilst such proclamation is still in force, that the necessity of extending the period therein named has ceased, the mayor, by a new proclamation declaring that fact, shall revoke the proclamation first issued, which, from that time, shall cease to have effect. How revoked.

§ 3. All fines, forfeitures and penalties, imposed in this Chapter, or under the powers delegated therein, shall be paid to the commissioners of health, as a part of the funds of the marine hospital; and such as are recoverable by suit, including the penalties of bonds taken from persons under quarantine, and excepting such as are, or shall be, imposed on physicians, shall be sued for by the commissioners of health, in their name of office. Penalties how collected; to whom to be paid.

§ 4. It shall be the duty of the commissioners of health and of each of them, to give information to the district attorney of the city and county of New-York, of all offences against the provisions of this Chapter, that shall come to their knowledge, that he may prosecute the offenders without delay, in the court of sessions of the city. Information.

§ 5. No suit that shall be brought by the board or the commissioners of health, or the health officer, in their respective names of office, in pursuance of the authority given in this Chapter, shall abate on account of the death of the officer, or officers, by whom the same shall be commenced. Suits not to abate.

§ 6. The provisions of the previous Titles of this Chapter, shall extend to all diseases, which, in the opinion of the board of health, shall be deemed dangerous to the public health; and nothing in this Chapter contained, shall be construed to interfere with the remedies against nuisances, provided by the common law. Extent of this Chapter.

§ 7. The board of health shall, from time to time, cause such parts as they shall deem necessary, of this Chapter, to be printed, and shall deliver the same to the respective pilots of the port, for distribution to the masters of vessels subject to quarantine: the expenses of such printing shall be defrayed out of the monies appropriated for the use of the marine hospital. Parts of this Chapter to be printed and distributed.

§ 8. It shall be the special duty of all magistrates and civil officers, and of all citizens of the state, to aid to the utmost of their power the board of health, and all the health officers mentioned in this Chapter, in the performance of their respective duties. All officers, &c. to aid.

## TITLE 6

## TITLE VI.

REGULATIONS FOR THE PRESERVATION OF PUBLIC HEALTH IN  
OTHER PORTS AND PLACES OF THE STATE.

- Sec. 1. How vessels to perform quarantine in Albany, Troy, and Hudson.  
 2. Persons violating provisions, guilty of misdemeanor.  
 3. Powers of persons authorised to execute this Title.  
 4. Health officers in Albany and Hudson, duties ; fees.  
 5. Board of health in Brooklyn ; who president and clerk.  
 6. May appoint a health physician.  
 7. Duty of health physician.  
 8. How vessels subject to quarantine at New-York, permitted to enter Brooklyn.  
 9. Master to deliver permit ; to whom.  
 10. Master violating preceding provisions, guilty of misdemeanor.  
 11. Board may order vessels to be removed.  
 12. Order to be in writing ; by whom signed ; how served.  
 13. Penalty on persons violating order.  
 14. Practising physicians to report patients.  
 15. Penalty for not reporting.  
 16. Duties of keepers of boarding-houses at certain period.  
 17. In same period, sick persons not to enter village.  
 18. Violation of two last sections, misdemeanor.  
 19. Certain powers of board of health.  
 20. Persons violating order of board, guilty of misdemeanor.  
 21. Fines ; to whom paid ; how applied.  
 22. Two justices of any town, may remove sick strangers.

Quarantine  
at Albany,  
Troy, and  
Hudson.

§ 1. No vessel having on board any person infected with any pestilential or infectious disease, or coming from a place so infected, shall enter any other of the ports or harbors of this state, until such quarantine as the persons herein after mentioned shall direct, shall have been performed, namely : for the cities of Albany, Troy, and Hudson, and upon the Hudson river opposite to those cities, and within one mile above and below the same, the mayor, or in his absence, the recorder of those cities respectively.

Penalties.

§ 2. Every person so subject to quarantine, who shall violate any of the regulations to be prescribed respecting the same, shall be considered guilty of a misdemeanor, and shall be fined in a sum not exceeding five hundred dollars.

Powers of  
certain off-  
cers.

§ 3. The persons authorised to execute this Title in the cities of Albany, Troy, and Hudson, shall respectively have power,

1. To take such measures as they shall deem effectual to prevent the spreading of any infectious disease :
2. To stop, detain and examine, for that purpose, every person coming from any place infected, or believed to be infected, with such a disease :
3. To cause every such person, whom they shall suspect of being infected with such disease, and who shall not be an inhabitant of this state, to be sent out of the state, or to be kept therein in such manner as not to endanger the public health : and,
4. To appoint such and so many persons to aid them in the execution of their powers, as they shall deem proper.

§ 4. The health officer in each of the cities of Albany and Hudson, shall assist in carrying into effect the provisions of this Title; and from the master of each vessel from a foreign port, that he shall inspect and examine, shall be entitled to receive the sum of seven dollars and fifty cents. TITLE 6.

§ 5. The board of trustees of the village of Brooklyn, shall continue to be a board of health for that village. The president, or the president for the time, of the village, shall be the president of the board of health; and the clerk of the board of trustees, shall be the clerk of the board of health, and as such, shall keep regular minutes of all their proceedings. Board of health in Brooklyn.

§ 6. The board of health shall annually appoint, by warrant, under the common seal of the village, a physician, then being an inhabitant of the village, to be the health physician in and for the village of Brooklyn. Physician.

§ 7. It shall be the duty of such health physician, His duty.

1. To visit all sick persons who shall be reported to the board of health of the village, and to report, without delay, his opinion of the disease of such persons, to the president of that board:
2. To visit and inspect all vessels coming to the wharves, landing places, or shores, in the village of Brooklyn, and suspected to have on board any pestilential disease, and all stores, or ware-houses, suspected to contain putrid or unsound provisions, damaged hides, cottons, or other articles; and to make report of the condition of such vessels, provisions, or articles, without delay, to the president of the board of health: and,
3. To meet daily, from the first day of June to the first day of October, in each year, at the office of the board of health in the village, with one or more members of the board, for the transaction of business.

§ 8. No vessel subject to quarantine in the port of New-York, shall proceed beyond the place of quarantine on Staten-Island, to the village of Brooklyn, without a permit from the health officer of the city of New-York. Certain vessels not to enter village.

§ 9. The master of every such vessel arriving in the village of Brooklyn, shall within six hours after such arrival, deliver the permit to the health officer to the president of the board of health of the village, or to such person as he shall direct. Duty of masters.

§ 10. Every master who shall violate the provisions of either of the two last preceding sections, shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court by which he shall be tried; the fine for each offence not

TITLE 6  
 to exceed two hundred and fifty dollars, nor the imprisonment six months.

Vessels when to be removed. § 11. The board of health of the village, whenever in their judgment the public health shall require it, may order any vessel at any wharf, landing place or shore of the village, to be removed at least five hundred yards from the shores of the village, within six hours from the service of such order.

Order how signed and served. § 12. Every such order shall be in writing, and be signed by the president of the board of health of the village, or in his absence, by a majority of the members of the board; and may be served by a delivery thereof to the person having, at the time, the care or command of the vessel to be removed, or to the master, owner or consignee thereof.

Penalties for disobeying. § 13. Every person upon whom such order shall have been duly served, who shall omit to comply with its requisitions, shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court by which he shall be tried; the imprisonment not to exceed six months, nor the fine, for each day the vessel to be removed shall have remained at or near the shores of the village, in violation of the terms of the order, two hundred and fifty dollars.

Sick to be reported. § 14. Every practising physician in the village of Brooklyn, shall forthwith make a report in writing, signed by himself, to some one of the board of health of the village, of every patient he shall have, laboring under malignant or yellow fever, or any other pestilential or infectious disease.

Penalty. § 15. Every physician who shall omit to make such report, shall forfeit the sum of fifty dollars, and be considered guilty of a misdemeanor.

Keepers of boarding-houses to report. § 16. Every keeper of a boarding or lodging-house, in the village of Brooklyn, between the first day of June and the fifteenth day of November in each year, shall report in writing, to some one of the board of health of the village, the name of every seafaring man or traveller who shall be sick in his house, within six hours after each case of sickness shall have occurred.

Sick not to enter village. § 17. No sick person, between the days mentioned in the last preceding section, shall be removed from any vessel lying at or near the shores of the village of Brooklyn, or from any other place, into the village, until the name of such person shall have been reported in writing, to some one of the board of health of the village, and a written permit for such removal have been granted by the board.

Penalties. § 18. Every person who shall violate the provisions of either of the two last preceding sections, shall be deemed guilty of a misde-

meanor, punishable by fine or imprisonment; the fine for each offence not to exceed one hundred dollars, nor the imprisonment six months. TITLE 7.

§ 19. The board of health of the village of Brooklyn shall have power, Powers of board of health.

1 To issue their proclamation, prohibiting or regulating the internal intercourse by land or water, between that village, and any other place where they shall have reason to believe, that a pestilential or infectious disease then prevails :

2. In case of the prevalence of any such disease in any part of the village, to enclose and shut up such infected part, so as to prevent all intercourse therewith :

3. To remove to the public hospital of the village, or such other place as they may deem fit, all persons within the village, not being residents thereof, who shall be sick of any pestilential or infectious disease, and all articles and things infected by, or tainted with, pestilential disease : and,

4. To cause any bedding or clothing, or any unsound or putrid articles found within the village, to be destroyed, whenever in their judgment, such destruction shall be necessary to prevent infection.

§ 20. Every person who shall violate any order, rule, or regulation of the board of health of the village, made in pursuance of the powers granted in the last preceding section, shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court by whom the offender shall be tried. Penalty for violating orders.

§ 21. All fines and forfeitures imposed in any of the preceding sections of this Title, from the fifth section inclusive, shall, when collected, be paid to the board of health of the village of Brooklyn, to be applied by them to the purchase, building or hire, support and maintenance of a public hospital for the village; and such forfeitures as are recoverable by civil suit, shall be sued for by the president of the board of health, in his name of office. Fines how collected and paid.

§ 22. Any two justices of the peace, in any town of this state, may cause all persons who shall be sick of any infectious or pestilential disease, and not being residents of such town, by an order in writing, to be removed to such place of safety within the town, as they shall deem necessary for the preservation of the public health. Powers of justices in towns.

## TITLE VII.

### GENERAL REGULATIONS CONCERNING THE PRACTICE OF PHYSIC AND SURGERY IN THIS STATE.

- Sec. 1.** Medical societies to require physicians and surgeons to apply for admission.  
**2.** If persons notified do not apply, license to be forfeited.  
**3.** Charges may be preferred to society against members for misconduct, &c.

- TITLE 7.** **Sec. 4.** When charges to be delivered to district attorney.
5. District attorney to serve copy on accused, and give notice of hearing.
6. He shall conduct prosecution, and issue subpoenas for both parties.
7. County judges to hear and determine charges; their judgment.
- 8 & 9. Qualifications for admission to an examination; term of study, &c.
10. Certificates of commencing of studies to be filed with president of society.
11. Order of president specifying period of study, to be annexed to certificate.
12. When regents to grant degrees of doctor of medicine.
13. In what counties students to be examined.
14. Candidates rejected in one county, not to be examined in another; may appeal.
15. Persons rejected by state censors, not to be examined by county censors.
16. No person to practise without license, &c. from this or some other state.
17. Persons coming from another state, &c. to file copy of diploma with county clerk.
18. Certain diplomas not to confer right of practising in this state.
19. Persons licensed, to deposit copy of license in county clerk's office.
20. Persons under 21, not entitled to practise.
21. Certain degrees not to be a license; restriction as to faculties of medicine.
22. Penalty for practising without authority.

Notice to be given to every physician and surgeon.

§ 1. The president of every county medical society shall give notice in writing, to every physician and surgeon not already admitted into such society, within the county in which the society of which he is president is situated, requiring such physician or surgeon, within sixty days after the service of such notice, to apply for and receive, a certificate of admission, as a member of such society.<sup>5</sup>

How served: persons notified to forfeit their licenses, if they do not apply.

§ 2. The service of every such notice shall be made personally, on the physician or surgeon, to whom it shall be directed: and if such physician or surgeon shall not, within the time specified in the notice, or within such further time as may be allowed by the president, under the regulations of the society, apply for a certificate of membership in such society, his license shall be deemed forfeited, and he shall be subject thereafter, to all the provisions and penalties of the laws of this state, in relation to unlicensed physicians, until upon a special application, he shall be admitted a member of the medical society, in the county in which he shall reside.

Charges for misconduct.

§ 3. If there shall be preferred to any county medical society, specific charges against any member thereof, of gross ignorance or misconduct in his profession, or of immoral conduct or habits, a special meeting of the society to consider the charges shall be called, of which at least ten days previous notice shall be given, in one or more of the newspapers printed in the county.

Proceedings thereon.

§ 4. If two-thirds of the members present at such meeting shall be of opinion, that the charges preferred are well founded, the president of the society, shall, without delay, deliver a certified copy of the charges and of the vote of the society thereon, to the district attorney of the county, and shall give notice of such delivery to the member accused, who from that time shall be suspended from the practice of physic and surgery, until the determination of such charges, in the manner herein after provided.

(5) This Title was compiled, with some variations and additions, from the following statutes: 2 R. L. 220, § 12, 20 and 21; Laws of 1818, p. 192; 1819, p. 306; 1827, p. 176.



§ 5. The district attorney to whom the charges shall be delivered, shall serve a copy thereof without delay, on the member accused, and at the same time shall give him notice, of the time and place at which the judges of the court of common pleas of the county will meet, for the purpose of hearing and determining the same : such notice shall be served at least fourteen days, before the time of hearing appointed.

TITLE 7.

Charges to be served and notice of hearing.

§ 6. The district attorney shall conduct the prosecution of the charges, and shall issue process to compel the attendance of such witnesses, as the president of the society and the member accused, shall severally require.

District attorney to prosecute.

§ 7. The judges of the county court, at the time and place of hearing appointed, or at such other time and place as they shall fix, shall proceed to hear and determine the charges, and shall examine, on oath, the witnesses produced : if they, or a majority of them, shall be satisfied, from the evidence, that the charges are true, they shall make an order, which shall be valid in law, expelling the member accused from the society, and declaring him forever thereafter incapable of practising physic and surgery, within this state ; or suspending him from such practice, for a limited period : if they shall be of opinion, that the charges are not established, the suspension of the member accused shall cease, and he shall be restored to all his rights and privileges, as a practising physician and surgeon.

Judges to determine,

To expel,

Or suspend,

Or acquit.

§ 8. No student shall be admitted to an examination by any medical society, until he shall have completed, with some physician and surgeon, duly authorised by law to practise his profession, the term of medical study, prescribed in the following sections of this Title.

Qualifications of students.

§ 9. The regular term of the study of medical science shall be four years, but a deduction from such term, in no case to exceed one year, shall be made in either of the following cases :

Term of study.

1. If the student, after the age of sixteen, shall have pursued any of the studies usual in the colleges of this state, the period, during which he shall have pursued such studies, shall be deducted.

2. If the student, after the age of sixteen, shall have attended a complete course of all the lectures delivered in an incorporated medical college in this state, or elsewhere, one year shall be deducted.

§ 10. The physician and surgeon with whom a student shall commence his studies, shall file a certificate with the president of the county medical society to which he belongs, certifying that such person has so commenced his studies ; and the term of study shall be considered as commencing, from the day on which such certificate is filed.

Certificate.

§ 11. If the term of study shall be intended to be for less than four years, upon either of the grounds mentioned in the ninth section of

Order for term of study

**TITLE 7.** this Title, the president with whom the certificate shall be filed, upon satisfactory proof that a deduction ought to be allowed, shall annex to such certificate, an order specifying the period, not exceeding one year, which, according to the proof exhibited to him, ought to be deducted from the term of four years, and directing that the term of study of the student shall be for the period that shall remain.

**Requisites for diplomas from regents.** § 12. No person shall receive from the regents of the university a diploma, conferring the degree of doctor of medicine, unless he shall have pursued the study of medical science for at least three years, after the age of sixteen, with some physician and surgeon, duly authorised, by law to practice his profession, and shall also, after the same age, have attended two complete courses of all the lectures delivered in an incorporated medical college, and have attended the last of such courses, in the college by which he shall be recommended for his degree.

**In what counties students to be examined.** § 13. No student shall be admitted to an examination by any county medical society, except of the county in which he shall have pursued his medical studies for four months immediately preceding his examination; but if the student, during that period, shall have attended the lectures in either of the incorporated medical colleges of this state, he may be examined and licensed, either by the medical society of the county in which such college is situated, or by that of the county in which he shall have resided, previous to such attendance.

**If rejected, to appeal.** § 14. No person, who shall have been examined by the censors of any county medical society, as a candidate for the practice of physic and surgery, or either of them, and shall have been rejected on such examination, shall be admitted to an examination, before the censors of any other county medical society; but such person may appeal from the decision of the censors by whom he shall have been examined, to the medical society of the state.

**Persons rejected by state society.** § 15. No person, who, either upon an original examination or upon an appeal, shall have been rejected by the censors of the state medical society, shall thereafter be admitted to an examination, before the censors of any county medical society.

**Who to practice physic.** § 16. No person shall practice physic or surgery, unless he shall have received a license or diploma, for that purpose, from one of the incorporated medical societies in this state, or the degree of doctor of medicine from the regents of the university; or shall have been duly authorised to practice by the laws of some other state or country, and have a diploma from some incorporated college of medicine, or legally incorporated medical society, in such state or country.

§ 17. No person coming from another state or country, shall practice physic or surgery in this state, until he shall have filed a copy of his diploma, with the clerk of the county where he resides, and until he shall have exhibited to the medical society of that county, satisfactory evidence that he has regularly studied physic and surgery, according to the requisitions of the ninth section of this Title.

TITLE 7.  
Persons from another state or country.

§ 18. No diploma, granted by any authority out of this state, to an individual who shall have pursued his studies in any medical school within this state, not incorporated and organized under its laws, shall confer on such individual, the right of practising physic or surgery, within this state.

Diplomas to students in certain schools, not valid.

§ 19. Every person licensed to practice physic or surgery, or both, shall deposit a copy of such license with the clerk of the county where he resides, who shall file the same in his office; and until such license is so deposited, such person shall be liable to all the penalties provided by law, in the same manner as if he had no license.

License in all cases to be filed.

§ 20. No person under the age of twenty-one years shall be entitled to practice physic or surgery in this state.

Persons under 21.

§ 21. The degree of doctor of medicine conferred by any college in this state, shall not be a license to practice physic or surgery; nor shall any college have, or institute, a medical faculty, to teach the science of medicine, in any other place than where the charter locates the college.

Degree conferred by colleges, &c.

§ 22. Every person, not authorised by law, who, for any fee or reward, shall practice physic or surgery within this state, shall be incapable of recovering, by suit, any debt arising from such practice, and shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court by which he shall be convicted.

Penalty for practising without authority.

## CHAP. XV. Of Public Instruction.

TITLE 1.—Of the university of this state, and of the foundation and government of colleges, academies, and select schools.

TITLE 2.—Of common schools.

TITLE 3.—Of the duties of the superintendent of common schools in relation to the instruction of the deaf and dumb.

TITLE 4.—Of the Gospel and School lots.

TITLE 5.—Of the Lewiston school fund.

## TITLE I.

## TITLE I.

## OF THE UNIVERSITY OF THIS STATE, AND OF THE FOUNDATION AND GOVERNMENT OF COLLEGES, ACADEMIES, AND SELECT SCHOOLS.

- ART. 1.—Of the organization and powers of the board of regents.  
 ART. 2.—Of the powers and duties of the trustees of colleges.  
 ART. 3.—Of the foundation of academies.  
 ART. 4.—Of the powers and duties of trustees of academies.  
 ART. 5.—General provisions applicable to colleges and academies.  
 ART. 6.—Of the foundation and government of Lancasterian or select schools.

## ARTICLE FIRST.

*Of the Organization and Powers of the Board of Regents.*

- SEC. 1. University instituted ; government vested in regents.  
 2. Name and corporate powers.  
 3. Number of regents ; who members ex officio.  
 4. How appointed ; how removed.  
 5. Vacancies, how supplied.  
 6. Officers ; who ; how chosen ; tenure of office.  
 7. Who to preside ; president has casting vote.  
 8. To be an annual meeting ; time and place.  
 9. Place of other meetings ; by whom appointed.  
 10. Eight regents a quorum ; power to adjourn.  
 11. How meetings ordered and called.  
 12. Treasurer to keep account of monies received and paid.  
 13. Secretary to keep journal.  
 14. Regents may have access to, and take copies of papers.  
 15. Must visit colleges and academies, and report annually.  
 16. May make by-laws.  
 17. Grants must be applied to uses for which made.  
 18. Regents may confer degrees.  
 19. Their degree of M. D. to give authority to practise physic.  
 20. May in certain cases supply vacancies in offices of president and principal.  
 21 & 22. Tenure of office of such person ; powers, emoluments, &c.  
 23. Regents have control of income of literature fund ; application thereof.  
 24 & 25. How distribution thereof to be regulated.  
 26. Regents must require annual returns from seminaries.  
 27. How return to be attested ; what it must contain.  
 28. Regents must report annually to the legislature an abstract of returns.  
 29. Regents to prescribe forms of returns.  
 30. Their necessary expenses to be paid out of treasury.

University.

SECTION 1. An university is instituted in this state, of which the government is, and shall continue to be, vested in a board of regents.<sup>1</sup>

Name and corporate powers.

§ 2. This university is incorporated under, and is and shall be known by, the name of "The Regents of the University of the State of New-York ;" and by that name shall have perpetual succession, power to sue and be sued, to make and use a common seal and alter the same at pleasure, to hold property, real and personal, to the amount of the annual income of forty thousand bushels of wheat, and to buy and sell, and otherwise dispose of, lands and chattels.<sup>1</sup>

Number of regents.

§ 3. The regents are twenty-one in number, including the governor and lieutenant-governor, who are members of the board by virtue of their offices.<sup>1</sup>

§ 4. With the exception of the governor and lieutenant-governor, the regents are appointed by the legislature, and may be removed by a concurrent resolution of the senate and assembly.<sup>2</sup>

ART. 1  
How appointed, &c.

§ 5. All vacancies happening in the offices of those so appointed, shall be supplied by the legislature, in the manner in which the state officers are directed to be appointed, in the fifth Chapter of this act.<sup>2</sup>

Vacancies.

§ 6. The officers of this corporation are a chancellor, a vice-chancellor, a treasurer and a secretary, all of whom are chosen by the regents, by ballot; a plurality of votes being sufficient to a choice. They hold their respective offices during the pleasure of the board.<sup>3</sup>

Officers.

§ 7. The chancellor, and if he shall be absent, the vice-chancellor, and if both be absent, the senior regent in the order of appointment, shall preside at all meetings of the regents, and have a casting vote in case of a division.<sup>3</sup>

Presiding officer.

§ 8. There shall be an annual meeting of the regents on the evening of the second Thursday in January, in every year, at the senate chamber in the Capitol.<sup>4</sup>

Annual meeting.

§ 9. All meetings, except adjourned meetings, shall be held at such time and place as the chancellor, or in case his office be vacant, or he be absent from the state, the vice-chancellor, or if he be also absent, or the offices of both be vacant, the senior regent in the state, shall appoint.<sup>2</sup>

Other meetings.

§ 10. Eight regents attending, shall be a board for the transaction of business; and the regents present, whether a quorum or otherwise, shall have power to adjourn from time to time, not exceeding ten days at a time.<sup>5</sup>

Quorum, &c.

§ 11. A meeting shall be ordered and called by the officer authorised to appoint the same, as often as three regents, in writing, so request: and the order shall be published in the state paper at least ten days prior to the meeting.<sup>6</sup>

Calling of meetings.

§ 12. The treasurer shall keep an account of all monies by him received and paid out.<sup>3</sup>

Treasurer.

§ 13. The secretary shall keep a journal of the proceedings of the regents, in which the ayes and noes on all questions shall be entered, if requested by any one of the regents present.<sup>6</sup>

Secretary.

§ 14. Each regent may always have access to, and be permitted to take copies of, all the books and papers of the corporation.<sup>6</sup>

Books and papers.

§ 15. The regents are authorised and required, by themselves or their committees, to visit and inspect all the colleges and academies

Power of visitation.

(2) 2 R. L. 260, § 1. (3) Ib. § 1 and 2. (4) Ib. § 5. (5) Ib. § 1 and 5. (6) Ib. § 1.

**TITLE I** in this state, examine into the condition and system of education and discipline therein, and make an annual report of the state of the same, to the legislature.<sup>7</sup>

**By-laws** § 16. The regents shall have power to make such by-laws and ordinances, as they shall judge most expedient, for the accomplishment of the trust reposed in them.<sup>7</sup>

**Grants to regents.** § 17. Grants made to the regents for certain uses and purposes, shall not be applied, either wholly or in part, to any other uses.<sup>8</sup>

**May confer degrees.** § 18. The regents shall have the right of conferring, by diploma under their common seal, on any person whom they may judge worthy thereof, such degrees, above that of master of arts, as are known to, and usually granted by, any college or university in Europe.<sup>9</sup>

**Degree of M. D.** § 19. A degree of doctor of medicine, granted by the regents, shall authorise the person on whom it is conferred, to practise physic and surgery within this state.<sup>9</sup>

**Vacancies in colleges and academies.** § 20. In case the trustees of any college shall leave the office of president of the college, or the trustees of any academy shall leave the office of principal of the academy, vacant, for the space of one year, the regents shall fill up such vacancy, unless a reasonable cause shall be assigned for such delay, to their satisfaction.<sup>7</sup>

**Ib.** § 21. The person so appointed, shall continue in office during the pleasure of the regents, and shall have the same powers, and the same salary, emoluments and privileges, as his next immediate predecessor in office enjoyed.<sup>7</sup>

**Ib.** § 22. If such president or principal had no immediate predecessor in office, he shall have such salary as the regents shall direct, to be paid by the trustees out of the funds or property of their college or academy.<sup>7</sup>

**Literature fund.** § 23. The regents shall have the control of the whole income arising from the literature fund, and shall annually divide such income into eight equal parts, and assign one part thereof to each senate district. They shall annually distribute the part so assigned to each district, among such of the incorporated seminaries of learning, exclusive of colleges, within such district, as are now subject, or shall become subject, to their visitation, by a valid corporate act.<sup>10</sup>

**How distributed.** § 24. Every such distribution shall be made in proportion to the number of pupils in each seminary, who, for four months during the preceding year, shall have pursued therein, classical studies, or the higher branches of English education, or both.<sup>10</sup>

(7) 2 R. L. 260, § 3. (8) *Ib.* § 4. (9) *Ib.* § 7. (10) Laws of 1827, p. 237, § 3, 4 and 5

§ 25. No pupil in any such seminary, shall be deemed to have pursued classical studies, unless he shall have advanced at least, so far as to have read in Latin, the first book of the *Æneid*; nor to have pursued the higher branches of English education, unless he shall have advanced beyond such knowledge of arithmetic, (including vulgar and decimal fractions,) and of English grammar and geography, as is usually obtained in common schools.<sup>11</sup>

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lib. studies.

§ 26. The regents shall require each seminary subject to their visitation, to make an annual return on or before the first day of February in each year, to the secretary of their board.<sup>11</sup>

Annual report to regents.

§ 27. Every such return shall be attested by the oath either of the principal instructor in the seminary by which it shall be made, or of one of the trustees thereof, and shall contain :

Contents thereof

1. The names and ages of all the pupils instructed in such seminary, during the preceding year, and the time that each was so instructed.

2. A particular statement of the studies pursued by each pupil, at the commencement of his instruction, and of his subsequent studies, until the date of the report, together with the books such student shall have studied in whole or in part, and if in part, what portion.

3. An account or estimate of the cost or value of the library, philosophical and chemical apparatus, and mathematical and other scientific instruments, belonging to the seminary.

4. The names of the instructors employed in the seminary, and the compensation paid to each.

5. An account of the funds, income, debts and incumbrances of the seminary, and of the application therein, of the monies last received from the regents.<sup>11</sup>

§ 28. The regents shall annually, and on or before the first day of March, in each year, report to the legislature an abstract of all the returns made to them, embracing a general view of the particulars contained therein, and shall also state in their report, the distribution made by them, during the preceding year, of the income of the literature fund, the names of the seminaries sharing in such distribution, and the amount received by each.<sup>11</sup>

Regents' annual report.

§ 29. The regents shall prescribe the forms of all returns, which they shall require from colleges and other seminaries of learning, subject to their visitation, and may direct such forms and such instructions, as from time to time, shall be given by them as visitors, to be printed by the state printer.<sup>11</sup>

Forms of returns.

§ 30. The expenses of such printing, and all other necessary expenses incurred by the regents, as a board, in the discharge of their official duties, shall be audited by the comptroller, and be paid out of the treasury.<sup>11</sup>

Expenses of printing, &c.

## TITLE I.

## ARTICLE SECOND.

*Of the Powers and Duties of the Trustees of Colleges.*

- Sec.: 31. Trustees to be a corporation.  
 32. How meetings held and summoned.  
 33. How notices to be given.  
 34. How seniority among trustees determined.  
 35. Number of trustees: what number a quorum.  
 36. Powers of trustees enumerated.  
 37. Privileges conferred by diploma.

*Corporation.* § 31. The trustees of every college to which a charter shall be granted by the state, shall be a corporation.<sup>12</sup>

*Meetings.* § 32. The trustees shall meet upon their own adjournment, and as often as they shall be summoned by their chairman, or in his absence, by the senior trustee, upon the request in writing of any other three trustees.<sup>13</sup>

*Notice thereof.* § 33. Notice of the time and place of every such meeting shall be given in a newspaper printed in the county where such college is situate, at least six days before the meeting; and every trustee resident in such county, shall be previously notified in writing, of the time and place of such meeting.<sup>13</sup>

*Seniority.* § 34. Seniority among the trustees shall be determined according to the order in which they are named in the charter of the college; and after all the first trustees shall become extinct, according to the priority of their election.<sup>13</sup>

*Quorum.* § 35. The trustees shall not exceed twenty-four, nor be less than ten, in number; and a majority of the whole number, shall be a quorum for the transaction of business.<sup>13</sup>

*Powers of trustees.* § 36. The trustees of every such college, besides the general powers and privileges of a corporation, shall have power;

1. To elect by ballot their chairman annually;
2. Upon the death, removal out of this state, or other vacancy in the office of any trustee, to elect another in his place by a majority of the votes of the trustees present;
3. To declare vacant the seat of any trustee, who shall absent himself, from five successive meetings of the board;
4. To take and hold, by gift, grant or devise, any real or personal property, the yearly income or revenue of which, shall not exceed the value of twenty-five thousand dollars;
5. To sell, mortgage, let and otherwise use and dispose of such property, in such manner, as they shall deem most conducive to the interest of the college;
6. To direct and prescribe the course of study and discipline, to be observed in the college;

(12) 2 R. L. 202, § 6. (13) *Ib.* and p. 206, § 4, 5, 6, 7 & 8



7. To appoint a president of the college, who shall hold his office during good behavior :

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8. To appoint such professors, trustees and other officers, as they shall deem necessary, who, unless employed under a special contract, shall hold their offices during the pleasure of the trustees :

9. To remove or suspend from office the president and every professor, tutor or other officer employed under a special contract, upon a complaint in writing by any member of the board of trustees, stating the misbehavior in office, incapacity or immoral conduct, of the person sought to be removed, and upon examination and due proof of the truth of such complaint ; and to appoint any other person in place of the president or other officer, thus removed or suspended :

10. To grant such literary honors as are usually granted by any university, college or seminary of learning in the United States ; and in testimony thereof to give suitable diplomas, under their seal and the signature of such officers of the college, as they shall deem expedient :

11. To ascertain and fix the salaries of the president, professors and other officers of the college :

12. To make all ordinances and by-laws necessary and proper to carry into effect the preceding powers.<sup>14</sup>

§ 37. Every diploma granted by such trustees, shall entitle the possessor to all the immunities which by usage or statute are allowed to possessors of similar diplomas granted by any university, college or seminary of learning in the United States.<sup>14</sup> Effect of diplomas.

#### ARTICLE THIRD.

##### *Of the Foundation of Academies.*

Sec. 38. Founders of an academy may apply to regents for incorporation.

39. How approbation of regents declared.

40. When funds vest, and how.

§ 38. The founders and benefactors of any academy, or as many of them, as shall have contributed more than one half in value, of the property collected for the use thereof, may make to the regents an application in writing under their hands, requesting that such academy may be incorporated, nominating the first trustees, and specifying the name by which the corporation is to be called.<sup>15</sup> Application for incorporation.

§ 39. In case the regents shall approve thereof, they shall, by an instrument under their common seal, declare their approbation of the incorporation of the trustees of such academy, by the name specified in such application ; and the request, and instrument of approbation, shall be recorded in the office of the secretary of state.<sup>15</sup> Duty of regents.

(14) 2 R. L. 222, § 6, & p. 223, § 4, 5, 6, 7 & 8. (15) Ib. 223, § 10 & 11.

**TITLE 1.**  
**Funds.** § 40. Immediately after recording the same, the property and funds of such academy, shall be vested in the trustees so nominated, for the use and benefit of the academy.<sup>16</sup>

**ARTICLE FOURTH.**

*Of the Powers and Duties of Trustees of Academies.*

- SEC. 41.** Trustees to be a corporation ; name ; number ; what number a quorum.  
**42.** Powers of trustees enumerated.  
**43.** How meetings summoned, and by whom.  
**44.** Time and place, how appointed.  
**45.** How notice to be given ; who to preside.  
**46.** How seniority determined.  
**47.** In what case the office of a trustee may be vacated.  
**48.** How their number may be reduced.

**Corporation.** § 41. The trustees of every such academy shall be a corporation, by the name expressed in the instrument of approbation ; they shall not be more than twenty-four, nor less than twelve, in number, and a majority of the whole number, shall be a quorum for the transaction of business.<sup>17</sup>

**General powers.** § 42. Such trustees, besides the general powers and privileges of a corporation, shall have authority ;

1. To adjourn from time to time, as they may deem expedient :
2. To elect by ballot their president, who shall hold his office for one year, and until another be chosen in his place :
3. Upon the death, resignation, refusal to act, removal out of this state, or other vacancy in the office of any trustee, to elect another in his place, by a majority of the votes of the trustees present :
4. To take and hold by gift, grant or devise, any real or personal property, the clear yearly income or revenue of which shall not exceed the value of four thousand dollars :
5. To sell, mortgage, let or otherwise use and dispose of, such property, for the benefit of the academy :
6. To direct and prescribe the course of discipline and study in the academy :
7. To appoint a treasurer, clerk, principal, masters, tutors, and other necessary officers of the academy ; who unless employed under a special contract, shall hold their offices during the pleasure of the trustees :
8. To ascertain and fix the salaries of all the officers of the academy :
9. To remove or suspend from office any officer employed under a special contract, upon a complaint in writing by a trustee, of the misbehavior in office, incapacity or immoral conduct, of such officer, and upon examination and due proof of the truth of such complaint, and to appoint another person in the place of the officer so removed or suspended :

10. To make all ordinances and by-laws necessary and proper to carry into effect the preceding powers.<sup>18</sup> ART. 5.

§ 43. The trustees shall meet upon their own adjournment and as often as they shall be summoned by their president, or the senior trustee actually exercising his office, and residing within three miles of such academy, upon the request in writing of any other three trustees.<sup>18</sup> Meetings.

§ 44. Every meeting so requested, shall be held at such time and place, as the president or senior trustee shall appoint, not less than five, nor more than twelve, days from the time of the request.<sup>18</sup> Time and place.

§ 45. Previous notice in writing of every such meeting, shall be fixed on the door of the academy, within two days after its appointment; and at every meeting, adjourned or special, the president, or senior trustee present, shall preside.<sup>18</sup> Notice.

§ 46. The seniority of the trustees shall always be determined according to the order of their nomination in the written application to the regents; and after all the first trustees shall become extinct, according to the priority of their election.<sup>18</sup> Seniority.

§ 47. If a trustee shall refuse or neglect to attend any two successive legal meetings of the trustees, after having been personally notified to attend, and if no satisfactory cause of his non-attendance be shown, the trustees may declare his office vacant.<sup>19</sup> Office of trustee, when vacated.

§ 48. Where the number of trustees of any academy shall exceed twelve, the trustees thereof, at their annual meeting, may reduce the number of the original board of trustees to any number, not less than twelve, by abolishing the offices of those, who may omit to attend such meeting, and shall have omitted to attend two other legal meetings after notice.<sup>19</sup> Number how reduced.

#### ARTICLE FIFTH.

##### *General Provisions applicable to Colleges and Academies.*

sec. 49. No religious qualification to be required in professors, tutors, &c.

50. No professor or tutor to be a trustee.

51. No president or principal has a vote relative to his own emoluments.

52. No officer to be a regent.

53. No trustee to be a regent, or regent trustee.

54. Colleges and academies now exempt, how to become subject to regents.

55. Returns to be made by institutions so subject.

56. Nothing in this Chapter to affect any charter heretofore granted.

§ 49. No religious qualification or test shall be required from any trustee, president, principal, or other officer of any incorporated college or academy, or as a condition for admission to any privilege in the same.<sup>20</sup> No religious test.

(18) 2 R. L. 268, § 10, 11, 12, 13 & 20. (19) Laws of 1817, p. 80, § 1 & 2. (20) 2 R. L. 268, § 18 & 267, § 8.

**TITLE I.**  
*Trustee.*

§ 50. No professor or tutor of any incorporated college or academy, shall be a trustee of such college or academy.<sup>21</sup>

*ib. When not to vote.*

§ 51. No president of any such college, or principal of any such academy, who shall be a trustee, shall have a vote in any case relating to his own salary or emoluments.<sup>21</sup>

*Regent.*

§ 52. No president, principal, or other officer of any such college or academy, shall be a regent of the university.<sup>21</sup>

*No trustee to act as regent, and no regent as trustee.*

§ 53. No trustee of a college or academy, shall act as a regent of the university, and no regent of the university shall act as trustee of any college or academy; and if any such trustee shall be appointed a regent, or a regent shall be appointed a trustee, he shall elect in which office he will serve, and give notice of such election to the authority by which he shall be appointed, within sixty days from the time of his appointment, otherwise such appointment shall be void.<sup>22</sup>

*Visitation of regents.*

§ 54. Any college or academy now incorporated, and exempt from the visitation of the regents, may subject itself to such visitation, by a resolution, to be approved and signed by a majority of its trustees, and attested by the seal of the corporation; and every such resolution, when received by the regents, shall be unalterable, unless with the consent of the regents.

*Returns to regents.*

§ 55. Every college and academy that shall become subject to the visitation of the regents, shall make such returns and reports to the regents, in relation to the state and disposition of its property and funds, the number and ages of its pupils, and its system of instruction and discipline, as the regents shall from time to time require.

*Saving clause*

§ 56. Nothing contained in this Chapter shall be construed to alter, or in any manner affect any charter heretofore granted by the legislature, or by the regents of the university, to any college or academy.<sup>23</sup>

**ARTICLE SIXTH.**

*Of the Foundation and Government of Lancasterian or Select Schools.*

*Sec. 57. Founders or benefactors may apply to regents for incorporation.*

58. How approbation of regents declared.

59. Request and instrument of approbation to be recorded.

60. Immediately after the recording, funds vest in trustees.

61. Name of corporation to be expressed in instrument of approbation.

62. Powers of trustees enumerated.

63. When the office of trustee vacated.

64 & 65. How such school may be made a district school.

66. Every school incorporated under these provisions, subject to regents.

*Application to regents for incorporation*

§ 57. The founders and benefactors of any school established, or to be established for the instruction of youth, on the system of Lan-

(21) 2 R. L. 265, § 18. (22) *ib.* & § 19. (23) *ib.* p. 262, § 8.

caster or Bell, or any other system of instruction approved by the board of regents, or as many of such founders as shall have contributed more than one half of the property collected or appropriated for the use of such school, may make to the regents of the university, an application in writing, under their hands, requesting that such school may be incorporated, nominating the first trustees, and specifying the name by which the corporation is to be called.<sup>24</sup> ART. 6.

§ 58. In case the regents shall conceive a compliance with such request, will be conducive to the diffusion of useful knowledge, they shall, by an instrument under their common seal, declare their approbation of the incorporation of the trustees of the school, by the name specified in such application.<sup>24</sup> Duty of regents.

§ 59. The request in writing, and instrument of approbation, shall be recorded in the office of the clerk of the county, in which such school shall be established.<sup>24</sup> Papers where recorded.

§ 60. Immediately after recording the same, the property and funds of such school shall be vested in the trustees so nominated, for the use and benefit of the school.<sup>25</sup> Funds.

§ 61. The trustees of such school, shall be a corporation, by the name expressed in the instrument of approbation.<sup>25</sup> Corporation.

§ 62. The trustees of every such school, (besides the general powers and privileges of a corporation,) shall have authority, Powers of trustees.

1. To elect, by ballot, their president, treasurer and clerk, annually :
2. Upon the death, resignation, refusal to act, removal out of the state, or other vacancy in the office of any trustee, to elect another in his place :
3. To appoint a master, assistants and other necessary officers of the school :
4. To remove or suspend any of them at pleasure, and to fix their respective salaries or compensation :
5. To appoint the times and places of their own regular meetings, and to adjourn from time to time :
6. To take and hold any real or personal property, the clear yearly income or revenue of which, shall not exceed the value of four thousand dollars :
7. To sell, mortgage, let and otherwise use and dispose of, such property for the benefit of the school :
8. To make all ordinances and by-laws, necessary and proper, to carry into effect the preceding powers.<sup>26</sup>

(24) Laws of 1821, p. 54, § 1. (25) *Ib.* § 2. (26) *Ib.* § 2, 3 and 4.

## TITLE 2.

When office vacated.

§ 63. If any trustee shall refuse or neglect to attend the stated meetings of the trustees, for four meetings successively, the office of such trustee may be declared vacant by the trustees.<sup>27</sup>

How made a district school.

§ 64. The trustees of any one or more common-school-districts, in any city, town or village of this state, within which any incorporated Lancasterian, or other select school is, or shall be established, with the consent of a majority of the taxable inhabitants of such district or districts, expressed at a meeting called for that purpose, may agree with the trustees of such incorporated school, to make the same a district school.<sup>28</sup>

W.

§ 65. Such incorporated school shall, during the continuance of such agreement, become a district school, and be entitled to all the benefits and privileges, and subject to all the regulations of other district schools.<sup>28</sup>

Visitation of regents.

§ 66. Every school incorporated under the provisions of this Article, shall be subject to the control and visitation of the regents; and shall make such returns and reports, in relation to the state and disposition of its property and funds, the number and ages of its pupils, and its system of instruction and discipline, as the regents shall from time to time require.

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**TITLE II.**

## OF COMMON SCHOOLS.

ART. 1.—Of the powers and duties of the superintendent of common schools, and of the apportionment of school monies.

ART. 2.—Of the distribution of the common school fund.

ART. 3.—Of the powers and duties of the commissioners of common schools.

ART. 4.—Of the inspectors of common schools.

ART. 5.—Of the formation of school districts, and of the choice, duties and powers of their officers.

ART. 6.—Of certain duties of the county clerk.

ART. 7.—Local regulations respecting common schools.

**ARTICLE FIRST.**

*Of the Powers and Duties of the Superintendent of Common Schools, and of the Apportionment of School Monies.*

- SEC. 1. Superintendent must make annual report to the legislature; contents thereof.
2. When school monies to be apportioned.
  3. How apportionment to be made in New-York and Albany.
  4. How in other counties.
  5. How an increase apportioned.
  6. How apportionment made when census defective.
  7. New apportionment to be made in certain cases, and how.
  8. Apportionment to be certified, and notice to be given.
  9. Superintendent to prepare forms and instructions, and transmit them to officers.
  10. Six first Articles of this Title to be printed and distributed.
  11. Reasonable expenses of superintendent to be paid out of treasury.

5. To call together the commissioners, upon receiving notice from the county clerk that they have not made their annual report, for the purpose of making such report :

ART. 4

And generally, to do and execute all such things as belong to his office, and may be required of him by the commissioners.<sup>46</sup>

ARTICLE FOURTH.

*Of the Inspectors of Common Schools.*

- Sec. 44. Who inspectors of common schools in each town.
- 45. To examine persons offering themselves as teachers.
- 46. Qualifications to be required.
- 47. If satisfied, to give certificate.
- 48. May annul certificate after ten days' notice.
- 49. May require re-examination.
- 50. How effect given to the annulling of a certificate.
- 51. In certain cases, inspectors of two or more towns may examine.
- 52. Inspectors to visit schools at least once a year.
- 53. Duties at such visitation.
- 54. Each inspector may have assigned to him certain districts.

§ 44. The commissioners of common schools in each town, together with the other inspectors elected in their town, shall be the inspectors of common schools for their town.<sup>47</sup>

§ 45. It shall be the duty of the inspectors of common schools in each town, or any three of them, at a meeting of the inspectors called for that purpose, to examine all persons offering themselves, as candidates for teaching common schools in such town.<sup>48</sup>

§ 46. In making such examination, it shall be the duty of the inspectors to ascertain the qualifications of the candidate, in respect to moral character, learning and ability.<sup>48</sup>

§ 47. If the inspectors shall be satisfied in respect to the qualifications of the candidate, they shall deliver to the person so examined, a certificate signed by them, in such form as shall be prescribed by the superintendent of common schools.<sup>48</sup>

§ 48. The inspectors, or any three of them, may annul any such certificate given by them or their predecessors in office, when they shall think proper, giving at least ten days previous notice in writing to the teacher holding it, and to the trustees of the district in which he may be employed, of their intention to annul the same.<sup>48</sup>

§ 49. The inspectors, whenever they shall deem it necessary, may require a re-examination of all or any of the teachers in their towns, for the purpose of ascertaining their qualifications to continue as such teachers.<sup>48</sup>

§ 50. The annulling of a certificate shall not disqualify the teacher to whom it was given, until a note in writing thereof, containing the

(46) Laws of 1819, p. 191, § 11 & 34. (47) Ib. p. 190, § 9. (48) Ib. § 18.

TITLE 2.  
When office  
vacated.

§ 63. If any trustee shall refuse or neglect to attend the stated meetings of the trustees, for four meetings successively, the office of such trustee may be declared vacant by the trustees.<sup>27</sup>

How made  
a district  
school.

§ 64. The trustees of any one or more common-school-districts, in any city, town or village of this state, within which any incorporated Lancasterian, or other select school is, or shall be established, with the consent of a majority of the taxable inhabitants of such district or districts, expressed at a meeting called for that purpose, may agree with the trustees of such incorporated school, to make the same a district school.<sup>28</sup>

26.

§ 65. Such incorporated school shall, during the continuance of such agreement, become a district school, and be entitled to all the benefits and privileges, and subject to all the regulations of other district schools.<sup>28</sup>

Visitation of  
regents.

§ 66. Every school incorporated under the provisions of this Article, shall be subject to the control and visitation of the regents; and shall make such returns and reports, in relation to the state and disposition of its property and funds, the number and ages of its pupils, and its system of instruction and discipline, as the regents shall from time to time require.

## TITLE II.

### OF COMMON SCHOOLS.

- ART. 1.—Of the powers and duties of the superintendent of common schools, and of the apportionment of school monies.
- ART. 2.—Of the distribution of the common school fund.
- ART. 3.—Of the powers and duties of the commissioners of common schools.
- ART. 4.—Of the inspectors of common schools.
- ART. 5.—Of the formation of school districts, and of the choice, duties and powers of their officers.
- ART. 6.—Of certain duties of the county clerk.
- ART. 7.—Local regulations respecting common schools.

#### ARTICLE FIRST.

#### *Of the Powers and Duties of the Superintendent of Common Schools, and of the Apportionment of School Monies.*

- SEC. 1. Superintendent must make annual report to the legislature; contents thereof
2. When school monies to be apportioned.
  3. How apportionment to be made in New-York and Albany.
  4. How in other counties.
  5. How an increase apportioned.
  6. How apportionment made when census defective.
  7. New apportionment to be made in certain cases, and how.
  8. Apportionment to be certified, and notice to be given.
  9. Superintendent to prepare forms and instructions, and transmit them to officers.
  10. Six first Articles of this Title to be printed and distributed.
  11. Reasonable expenses of superintendent to be paid out of treasury.



§ 1. There shall continue to be a superintendent of common schools, whose duty, amongst other things, it shall be, to prepare and submit an annual report to the legislature, containing,

ART .I.  
General duties of superintendent.

1. A statement of the condition of the common schools of the state :
2. Estimates and accounts of expenditures of the school monies :
3. Plans for the improvement and management of the common school fund, and for the better organization of the common schools : and,
4. All such matters relating to his office, and to the common schools, as he shall deem expedient to communicate.<sup>29</sup>

§ 2. In every year, immediately following a year in which a census of the population of this state shall have been taken, under the authority of the state, or of the United States, the superintendent shall apportion the school monies to be annually distributed, amongst the several counties of the state, and the share of each county, amongst its respective towns and cities.<sup>30</sup>

§ 3. Such apportionment shall be made to the city and county of New-York, and to the county of Albany, and the towns and cities therein, according to the ratio of their population respectively, as compared with the population of the whole state, according to the last preceding census.<sup>30</sup>

§ 4. To every other county, city and town, the apportionment shall be made in the ratio of the number of children in each, over five and under sixteen years of age, as appearing to the superintendent, from the returns for the last preceding year.<sup>30</sup>

§ 5. If an increase of the school monies to be distributed, shall take place in any other year, than one immediately following a census, the superintendent shall apportion such increase amongst the several counties, cities and towns, according to the ratio of the apportionment then in force.<sup>30</sup>

§ 6. When the census, or returns, upon which an apportionment is to be made, shall be so far defective, in respect to any county, city, or town, as to render it impracticable for the superintendent to ascertain the share of school monies, which ought then to be apportioned to such county, city, or town, he shall ascertain, by the best evidence in his power, the facts upon which the ratio of such apportionment shall depend, and shall make the apportionment accordingly.<sup>30</sup>

§ 7. Whenever, in consequence of the division of a town, or the erection of a new town, in any county, the apportionment then in force shall become unjust, as between two or more of the towns of such county, the superintendent shall make a new apportionment of

(29) Laws of 1819, p. 187, § 2, 3, 4, & 84. (30) Laws of 1819, p. 188, § 5 ; 1822, p. 287 ; 1827, p. 287.

**TITLE 2** the school monies, next to be distributed amongst such towns, ascertaining by the best evidence in his power, the facts upon which the ratio of apportionment, as to such towns, shall depend.<sup>21</sup>

Certificate and return.

§ 8. The superintendent shall certify each apportionment made by him, to the comptroller, and shall give immediate notice thereof, to the clerk of each county interested therein, and to the clerk of the city and county of New-York: stating the amount of monies apportioned to his county, and to each town and city therein, and the time when the same will be payable to the treasurer of such county, or to the chamberlain of the city of New-York.<sup>21</sup>

Regulations, &c.

§ 9. The superintendent shall prepare suitable forms and regulations for making all reports, and conducting all necessary proceedings, under this Title, and shall cause the same, with such instructions as he shall deem necessary and proper, for the better organization and government of common schools, to be transmitted to the officers required to execute the provisions of this Title throughout the state.<sup>22</sup>

Certain articles to be printed.

§ 10. He shall cause so many copies of the first six Articles of this Title, with the forms, regulations and instructions prepared by him, thereto annexed, to be, from time to time, printed and distributed, amongst the several school districts of the state, as he shall deem the public good to require.

Expenses how paid.

§ 11. All monies reasonably expended by him, in the execution of his duties, shall, upon due proof, be allowed to him by the comptroller, and be paid out of the treasury.

#### ARTICLE SECOND.

##### *Of the Distribution of the Common School Fund.*

Sec. 12. When school monies to be paid; how; to whom.

13. To be applied for as soon as payable.

14. County treasurer to give notice to commissioners of common schools.

15. Duty of treasurer if monies are not applied for.

16. Duty of clerk of county on receiving notice of apportionment.

17. A sum equal to that apportioned, to be raised in each town.

18. To be paid to commissioners of common schools.

19. If no commissioners, to be paid to treasurer.

When paid.

§ 12. The sum annually to be distributed for the encouragement of common schools, shall be paid on the first day of February, in every year, on the warrant of the comptroller, to the treasurers of the several counties, and the chamberlain of the city of New-York.<sup>23</sup>

Treasurer to apply.

§ 13. The treasurer of each county, and the chamberlain of the city of New-York, shall apply for and receive the school monies apportioned to their respective counties, as soon as the same become payable.<sup>24</sup>

(21) Laws of 1819, p. 188, § 5; 1827, p. 237. (22) Laws of 1819, p. 208, § 26. (23) Laws of 1819, p. 187, § 3; 1824, p. 337, § 1. (24) Laws of 1819, p. 188, § 4.

§ 14. Each treasurer receiving such monies, shall give notice, in writing, to some one or more of the commissioners of common schools, of each town or city in his county, of the amount apportioned to such town or city, and shall hold the same, subject to the order of such commissioners.<sup>35</sup>

ART. 2  
To give notice.

§ 15. In case the commissioners of any such city or town, shall not apply for and receive such monies, or in case there are no commissioners appointed in the same, before the next receipt of monies apportioned to the county, the monies so remaining with the treasurer, shall be retained by him, and be added to the monies next received by him for distribution, from the superintendent of common schools, and be distributed therewith, and in the same proportion.<sup>35</sup>

Monies remaining how disposed of.

§ 16. Whenever the clerk of any county shall receive from the superintendent of common schools, notice of the apportionment of monies to be distributed in the county, he shall file the same in his office, and transmit a certified copy thereof to the county treasurer, and to the clerk of the board of supervisors of the county: and the clerk of the board of supervisors shall lay such copy before the supervisors, at their next meeting.<sup>36</sup>

County clerk.

§ 17. It shall be the duty of the supervisors, at such meeting, and at every annual meeting thereafter, to add to the sums of money to be raised on each of the towns of the county, for defraying the necessary expenses thereof, a sum equal to the school monies which shall have been apportioned to such town; which monies, so added, together with the fees of the collector, shall be levied and collected in the same manner as other monies directed to be raised in the town.<sup>36</sup>

Duty of board of supervisors

§ 18. The supervisors shall cause and require the collector of each town, by their warrant to him, to pay the monies so added, when collected, retaining his fees for collection, to some one or more of the commissioners of common schools in such town, for the use of common schools therein; whose receipt therefor, shall be sufficient evidence of such payment.<sup>36</sup>

§ 19. If there shall not be any commissioners of common schools, in such town when the monies are collected, the collector shall pay the same, retaining his fees for collection, to the county treasurer, to be by him apportioned among the several cities and towns in the county, and distributed in the manner provided in the fifteenth section of this Title.<sup>36</sup>

When monies to be paid to treasurer.

## TITLE 2.

## ARTICLE THIRD.

*Of the Powers and Duties of the Commissioners of Common Schools.*

- Sec. 20. Enumeration of certain duties of the commissioners.
21. Commissioners when to form and alter districts, in two or more towns.
  22. When to take effect, if trustees do not consent.
  - 23, 24 & 25. In what cases apportionment of school monies not to be made.
  26. In what case commissioners to make new apportionment.
  27. What commissioners to do with monies remaining in their hands, in certain case.
  28. Monies remaining two years, in certain cases, to be returned to treasurer.
  29. Commissioners to make annual report to county clerk; contents.
  30. If report not made, county clerk to give notice to clerk of town.
  31. Commissioners to forfeit \$10; monies for next year may be withheld.
  32. If monies lost to town, commissioners to forfeit full amount.
  33. Supervisor of town to prosecute.
  34. Commissioners to keep account of monies; to whom submitted.
  35. Must give account of monies to successors; to be filed.
  36. If balance remain, it must be paid forthwith.
  37. If balance appropriated, it must be stated and paid accordingly.
  38. For breach of any provision of three last sections, penalty of \$100.
  39. Successors to prosecute for forfeiture.
  40. Successors may bring suit for unpaid balance.
  41. If commissioner dead, suit may be brought against his representatives.
  42. Commissioners have powers of a corporation to certain extent.
  43. Town clerk, clerk of commissioners; his duty.

Duties of  
commission-  
ers.

§ 20. It shall be the duty of the commissioners of common schools, in each town,

1. To divide their town into a convenient number of school districts, and to regulate and alter such districts as herein after provided:

2. To set off by itself, any neighborhood, in their town, adjoining to any other state of this Union, where it has been usual, or shall be found convenient for such neighborhood, to send their children to a school in such adjoining state:

3. To describe and number the school districts, and to deliver the description and numbers thereof, in writing, to the town clerk, immediately after the formation or alteration thereof:

4. To deliver to such town clerk, a description of each neighborhood, adjoining to any other state, set off by itself:

5. To apply for and receive from the county treasurer, all monies apportioned for the use of common schools in their town, and from the collector of the town, all monies raised therein for the same purpose, as soon as such monies shall become payable, or be collected:

6. To apportion the school monies received by them, on the first Tuesday of April, in each year, among the several school districts, parts of districts, and neighborhoods separately set off, within their town, in proportion to the number of children residing in each, over the age of five, and under that of sixteen years, as the same shall have appeared from the last annual reports of their respective trustees:

7. If the commissioners shall have received the school monies of their town, and all the reports from the several school districts therein, before the first Tuesday of April, they shall apportion such monies

as above directed, within ten days, after receiving all of the said reports and the said monies : ART. 3.

8. To sue for and collect, by their name of office, all penalties and forfeitures imposed in this Title, and in respect to which no other provision is made, which shall be incurred by any officer or inhabitant of their town; and after deducting their costs and expenses, to add the sums recovered, to the school monies received by them, to be apportioned and paid in the same manner.<sup>37</sup>

§ 21. Whenever it may be necessary or convenient, to form a district out of two or more adjoining towns, the commissioners from each of such adjoining towns, or the major part of them, may form, regulate and alter such district.<sup>37</sup> Districts from several towns

§ 22. No alteration of any school district, made without the consent of the trustees thereof, shall take effect until three months after notice, in writing, shall be given by the commissioners, to some one or more of such trustees.<sup>37</sup> Consent of trustees.

§ 23. In making the apportionment of monies among the several school districts, no share shall be allotted to any district, part of a district, or separate neighborhood, from which no sufficient annual report shall have been received, for the year ending on the last day of December, immediately preceding the apportionment.<sup>37</sup> When monies withheld.

§ 24. No monies shall be apportioned and paid to any district, or part of a district, unless it shall appear by such report, that a school had been kept therein for at least three months, during the year ending at the date of such report, by a qualified teacher; and that all monies received from the commissioners during that year, have been applied to the payment of the compensation of such teacher.<sup>38</sup>

§ 25. No part of such monies shall be apportioned or paid to any separate neighborhood, unless it shall appear from the report of its trustee, that all monies received by him from the commissioners, during the year ending at the date of such report, have been faithfully applied, in paying for the instruction of children residing in such neighborhood.<sup>38</sup>

§ 26. If after the annual reports from the districts shall have been received, and before the apportionment of the school monies shall have been made by the commissioners, a district shall be duly altered, or a new district be formed in the town, so as to render an apportionment made solely on the annual reports, unjust, as between two or more districts of the town, the commissioners shall make an apportionment among such districts, according to the number of children in each, over the age of five and under sixteen years, ascertaining that number by the best evidence in their power.<sup>38</sup> Apportionment to district altered after annual report.

(37) Laws of 1819, p. 192, & p. 194, § 12 to 15. (38) *Id.* § 15.

## TITLE 2.

Monies one year in hands of commissioners.

§ 27. All monies apportioned by the commissioners, to the trustees of a district, part of a district, or separate neighborhood, which shall have remained in the hands of the commissioners for one year after such apportionment, by reason of the trustees neglecting or refusing to receive the same, shall be added to the monies next thereafter to be apportioned by the commissioners, and shall be apportioned and paid therewith, and in the same manner.<sup>39</sup>

When returned to treasurer.

§ 28. In case any school monies received by the commissioners, can not be apportioned by them, for the term of two years after the same are received, by reason of the non-compliance of all the school districts in their town with the provisions of this Title, such monies shall be returned by them to the county treasurer, to be by him apportioned and distributed, together and in the same manner with the monies next thereafter to be received by him, for the use of common schools.<sup>39</sup>

Annual report of commissioners.

§ 29. It shall be the duty of the commissioners in each town, between the first day of July and the first day of October in each year, to make and transmit to the county clerk, a report in writing, bearing date on the first day of July, in the year of its transmission, and stating,

1. The whole number of school districts and neighborhoods, separately set off within their town :
2. The districts, parts of districts, and neighborhoods, from which reports shall have been made to the commissioners, or their immediate predecessors in office, within the time limited for that purpose :
3. The length of time, a school shall have been kept in each of such districts or parts of districts, distinguishing what portion of that time, the school shall have been kept by qualified teachers :
4. The amount of public monies received in each of such districts, parts of districts and neighborhoods :
5. The number of children taught in each, and the number of children over the age of five and under sixteen years, residing in each :
6. The whole amount of monies received by the commissioners, or their predecessors in office, during the year ending at the date of their report, and since the date of their last preceding report ; distinguishing the amount received from the county treasurer, from the town collector, and from any other and what source :
7. The manner in which such monies have been expended, and whether any, and what part remains unexpended, and for what cause.<sup>40</sup>

County clerk to give notice.

§ 30. In case the commissioners in any town shall not, on or before the first day of October, in any year, make such report to the clerk of the county, it shall be his duty to give immediate notice of such neglect to the clerk of such town.<sup>41</sup>

(39) Laws of 1919, p. 194, § 16. (40) *Ib.* § 16. (41) *Ib.* § 24.

§ 31. The commissioners neglecting to make such report within the limited period, shall forfeit severally, to their town, for the use of the common schools therein, the sum of ten dollars; and the share of school monies apportioned to such town for the ensuing year, may, in the discretion of the superintendent of common schools, be withheld, and be distributed among the other towns in the same county, from which the necessary reports shall have been received.<sup>42</sup>

ART. 3.  
Forfeiture;  
money may  
be withheld

§ 32. When the share of school monies apportioned to a town, shall thus be lost to the town, by the neglect of its commissioners, the commissioners guilty of such neglect, shall forfeit to their town the full amount, with interest, of the monies so lost; and for the payment of such forfeiture they shall be jointly and severally liable.

And commis-  
sioners liable  
for amount.

§ 33. It shall be the duty of the supervisor of the town, upon notice of such loss, from the superintendent of common schools or county treasurer, to prosecute without delay, in the name of the town, for such forfeiture, and the monies recovered, shall be distributed and paid by such supervisor to the several districts, parts of districts, or separate neighborhoods of the town, in the same manner as it would have been the duty of the commissioners to have distributed and paid them, if received from the county treasurer.

Supervisors  
to prosecute,  
&c.

§ 34. The commissioners in each town, shall keep a just and true account of all school monies received and expended by them, during the year for which they shall have been chosen, and shall lay the same before the board of auditors of the accounts of other town officers, at the annual meeting of such board in the same year.<sup>43</sup>

Commission-  
ers to keep  
account.

§ 35. The commissioners of common schools in each town, shall, within fifteen days after the termination of their respective offices, render to their successors in office, a just and true account, in writing, of all school monies by them respectively received, before the time of rendering such account, and of the manner in which the same shall have been appropriated and expended by them; and the account so rendered shall be delivered by such successors in office to the town clerk, to be filed and recorded in his office.<sup>43</sup>

And render  
to successors.

§ 36. If, on rendering such account, any balance shall be found remaining in the hands of the commissioners, or any of them, the same shall immediately be paid by him or them, to his or their successors in office, or some one of them.<sup>43</sup>

And pay  
balance.

§ 37. If such balance, or any part thereof, shall have been appropriated by the commissioners to any particular school district, part of a district, or separate neighborhood, and shall remain in their hands for the use thereof, a statement of such appropriation, shall be made

If appropri-  
ated, to be  
paid accord-  
ingly.

(42) Laws of 1819, p. 196, § 16. (43) *Ib.* § 17.

**TITLE 2**  
 in the account so to be rendered, and the balance paid to such successors in office, shall be paid over by them, according to such appropriation.<sup>44</sup>

*Forfeiture  
 or neglect.*

§ 38. Every commissioner of common schools, who shall refuse or neglect to render such an account as is above required, or who shall refuse or neglect to pay over to his successors in office, any balance so found in his hands, or to deliver a statement of the appropriation, if any there be, of such balance, shall for each offence, forfeit the sum of one hundred dollars.<sup>44</sup>

*Successors to  
 prosecute.*

§ 39. It shall be the duty of such successors in office, to prosecute without delay, in their name of office, for the recovery of such forfeiture, and to distribute and pay the monies recovered, in the same manner as other school monies received by them.<sup>44</sup>

*Suit how  
 brought.*

§ 40. Such successors in office may bring a suit in their name of office, for the recovery, with interest, of any unpaid balance of school monies, that shall appear to have been in the hands of any previous commissioner on leaving his office, either by the accounts rendered by such commissioner, or by other sufficient proof.<sup>44</sup>

*Id.*

§ 41. In case of the death of such commissioner, such suit may be brought against his representatives, and all monies recovered shall be applied in the same manner as if they had been paid over without suit.<sup>44</sup>

*Corporation.*

§ 42. The commissioners of common schools in each town, shall have the powers and privileges of a corporation, so far as to enable them to take and hold any property transferred to them for the use of common schools in such town.<sup>45</sup>

*Clerk of com-  
 missioners :  
 his duty.*

§ 43. The town clerk, by right of office, shall be the clerk of the commissioners of common schools in each town, and it shall be his duty,

1. To receive and keep all reports made to the commissioners from the trustees of school districts, and all the books and papers belonging to the commissioners, and to file them in his office :

2. To attend all meetings of the commissioners, and to prepare, under their direction, all their reports, estimates and apportionments of school money, and to record the same and their other proceedings, in a book to be kept for that purpose :

3. To receive all such communications as may be directed to him by the superintendent of common schools, and to dispose of the same in the manner directed therein :

4. To transmit to the clerk of the county, all such reports as may be made for such clerk, by the commissioners :

(44) Laws of 1819, p. 196, § 17. (45) *Ib.* § 14.



5. To call together the commissioners, upon receiving notice from the county clerk that they have not made their annual report, for the purpose of making such report : ART. 4.

And generally, to do and execute all such things as belong to his office, and may be required of him by the commissioners.<sup>46</sup>

ARTICLE FOURTH.

*Of the Inspectors of Common Schools.*

- Sec. 44. Who inspectors of common schools in each town.
- 45. To examine persons offering themselves as teachers.
- 46. Qualifications to be required.
- 47. If satisfied, to give certificate.
- 48. May annul certificate after ten days' notice.
- 49. May require re-examination.
- 50. How effect given to the annulling of a certificate.
- 51. In certain cases, inspectors of two or more towns may examine.
- 52. Inspectors to visit schools at least once a year.
- 53. Duties at such visitation.
- 54. Each inspector may have assigned to him certain districts.

§ 44. The commissioners of common schools in each town, together with the other inspectors elected in their town, shall be the inspectors of common schools for their town.<sup>47</sup> Who inspectors.

§ 45. It shall be the duty of the inspectors of common schools in each town, or any three of them, at a meeting of the inspectors called for that purpose, to examine all persons offering themselves, as candidates for teaching common schools in such town.<sup>48</sup> Their duty, as to teachers.

§ 46. In making such examination, it shall be the duty of the inspectors to ascertain the qualifications of the candidate, in respect to moral character, learning and ability.<sup>48</sup>

§ 47. If the inspectors shall be satisfied in respect to the qualifications of the candidate, they shall deliver to the person so examined, a certificate signed by them, in such form as shall be prescribed by the superintendent of common schools.<sup>48</sup> Ib.

§ 48. The inspectors, or any three of them, may annul any such certificate given by them or their predecessors in office, when they shall think proper, giving at least ten days previous notice in writing to the teacher holding it, and to the trustees of the district in which he may be employed, of their intention to annul the same.<sup>48</sup> Ib.

§ 49. The inspectors, whenever they shall deem it necessary, may require a re-examination of all or any of the teachers in their towns, for the purpose of ascertaining their qualifications to continue as such teachers.<sup>48</sup>

§ 50. The annulling of a certificate shall not disqualify the teacher to whom it was given, until a note in writing thereof, containing the

(46) Laws of 1819, p. 191, § 11 & 34. (47) Ib. p. 190, § 9. (48) Ib. § 13.

**TITLE I.** name of the teacher, and the time when his certificate was annulled, shall be made by the inspectors, and filed in the office of the clerk of their town.<sup>49</sup>

**b.** § 51. Where any school district shall be composed of a part of two or more towns, or any school-house shall stand on the division line of any two towns, the inspectors of either town may examine into and certify the qualifications of any teacher, offering to teach in such district, in the same manner as is provided by the preceding sections of this Article; and may also in the same manner annul the certificate of such teacher.<sup>50</sup>

**Is as to v. -  
ing schools.** § 52. It shall be the duty of the inspectors to visit all such common schools, within their town as shall be organized according to law, at least once a year, and oftener if they shall deem it necessary.<sup>51</sup>

**b.** § 53. At such visitation, the inspectors shall examine into the state and condition of such schools, both as respects the progress of the scholars in learning, and the good order of the schools; and may give their advice and direction to the trustees and teachers of such schools, as to the government thereof, and the course of studies to be pursued therein.<sup>51</sup>

**b.** § 54. Each of the inspectors, by agreement with, or direction of, the other inspectors, may be assigned to a certain number of school districts, which it shall be his special duty to visit and inspect.<sup>51</sup>

#### ARTICLE FIFTH.

#### *Of the Formation of School Districts, and of the Choice, Duties and Powers of their Officers.*

**Sec. 55.** Duty of commissioners when district formed; notice to be given.

56. Manner of serving notice.

57. In certain cases, notice to be renewed.

58. For not serving notice, forfeiture \$5.

59. When meeting called, duty of inhabitants to assemble.

60. Qualifications of voters; fine for voting without right.

61. Powers of meeting.

62. Annual meeting, how and when to be appointed.

63. Who to call special meetings: want of notice; effect of.

64. Limitation of amount of tax to be voted at meeting, for hiring, &c. school-house.

65. Special meeting when called, to alter a district formed from several towns.

66. When site of school-house shall not be changed, or building removed.

67. In dividing districts, proportion due new district to be ascertained.

68. Proportion how ascertained; and deduction for debts of former district.

69. Amount of such proportion, how collected and applied.

70. Duration of office of district officers.

71. Vacancies in such offices, how filled.

72. Penalty for refusing to serve after appointment, and for neglecting without refusal.


73. Persons chosen may resign, and in what manner.

74. Duty of clerk of district.

75. Duty and powers of trustees.

76. Among whom tax to be apportioned, and upon what to be assessed.

(49) Laws of 1819, p. 190, § 18. (50) Laws of 1822, p. 288, § 8. (51) Laws of 1825, p. 198, § 19.

- Sec. 77. Persons owning lands occupied by agents, considered taxable inhabitants. ART. 5.
78. Improved land unoccupied, liable to taxation, though owner reside out of district. 
- 79 & 80. Valuations of taxable property, how ascertained, and when reduced.
81. Who exempted from taxation to build a school-house.
82. Trustees to assess district tax, and make list thereof.
83. When tenant may charge tax paid by him, to the owner of the land.
84. Where fuel for school is not provided by tax, who to furnish same.
85. Trustees to determine the proportion to be provided by each person.
- 86 & 87. If any person omit, trustees to furnish; how collected.
88. Collector's warrant, and his duty under it.
89. When trustees to renew warrant; and when to collect tax by suit.
90. Monies apportioned to a district if unpaid; how to be recovered and applied.
91. Trustees of district to report; when and to whom.
92. To whom report to be delivered, and what to specify.
93. Who to be deemed qualified teachers.
94. When a district is formed of two or more towns, trustees to whom to report.
95. Trustees of separate neighborhood, how chosen; when and to whom to report.
96. Penalty on trustees for signing a false report.
97. Property vested in trustees, held by them as a corporation.
- 98 & 99. At expiration of office, trustees to account; balance how paid.
100. Penalty for refusing, &c. to account.
101. Who to prosecute for same, and how applied.
102. Remedy for recovering balance from a former trustee; who to sue for it.
103. Bonds, &c. taken by trustees, to be delivered to their successors.
104. Fees of collector of district.
105. To pay to trustees monies collected, and when.
106. When required by them, to give bond to trustees; its conditions.
107. If he do not execute bond, office to be vacated.
108. If money lost by his neglect, what he shall forfeit.
109. Who to sue for such forfeiture, and for balances remaining in his hands.
110. From the decision of district meetings and trustees, appeal lies to commissioners.
111. From decision of commissioners, appeal lies to superintendent of common schools.

§ 55. Whenever any school district shall be formed in any town by the commissioners of common schools, it shall be the duty of some one or more of the commissioners, within twenty days thereafter, to prepare a notice, in writing, describing such district, and appointing a time and place for the first district meeting, and to deliver such notice to a taxable inhabitant of the district.<sup>52</sup> Commissioners to give notice.

§ 56. It shall be the duty of such inhabitant to notify every other inhabitant of the district, qualified to vote at district meetings, by reading the notice in the hearing of each such inhabitant, or in case of his absence from home, by leaving a copy thereof, or of so much thereof as relates to the time and place of such meeting, at the place of his abode, at least six days before the time of the meeting.<sup>52</sup> Notice for first meeting.

§ 57. In case such notice shall not be given, or the inhabitants of a district shall refuse or neglect to assemble, or form a district meeting, when so notified; or in case any such district, having been formed and organized in pursuance of such notice, shall afterwards be dissolved, so that no competent authority shall exist therein, to call a special district meeting in the manner herein after provided; such notice shall be renewed by the commissioners, and served in the manner above prescribed.<sup>52</sup> When to be renewed.

TITLE :

D.

inhabitant to whom a notice of a district meeting has been properly delivered for service, who shall refuse to attend the meeting in the manner above in this Article enjoined, or every such offence forfeit the sum of five dollars.<sup>53</sup>

Whenever any district meeting shall be called, in the manner provided in the preceding sections of this Article, it shall be the duty of the inhabitants of the district, qualified to vote at district meetings, to assemble together at the time and place mentioned in the notice.

§ 60. No person shall vote at any school district meeting, unless he shall be a freeholder in the town where he votes, or shall have been assessed the same year in which he votes, or the preceding year, to pay taxes therein; or shall possess personal property over and above such as is exempt from execution, to the amount of fifty dollars, liable to taxation in the district: and every person not so qualified, who shall vote at any such meeting, shall for each offence forfeit the sum of ten dollars.<sup>54</sup>

Powers of  
district meet-  
ing.

§ 61. The inhabitants so entitled to vote, when so assembled in such district meeting, or when lawfully assembled at any other district meeting, shall have power, by a majority of the votes of those present,

1. To appoint a moderator for the time being :
2. To adjourn from time to time, as occasion may require :
3. To choose a district clerk, three trustees, and one district collector, at their first meeting, and as often as such offices, or either of them, become vacated :
4. To designate a site for the district school-house :
5. To lay such tax on the taxable inhabitants of the district, as the meeting shall deem sufficient to purchase or lease a suitable site for a school-house, and to build, hire, or purchase such school-house, and to keep in repair and furnish the same with necessary fuel and appendages :
6. To repeal, alter, and modify their proceedings from time to time, as occasion may require.<sup>54</sup>

Annual meet-  
ing.

§ 62. In each school district, an annual meeting shall be held at the time and place previously appointed; and at the first district meeting, and at each annual meeting, the time and place of holding the next annual meeting shall be fixed.<sup>54</sup>

Special meet-  
ing.

§ 63. A special meeting shall be held in each district whenever called by the trustees; and the proceedings of no district meeting, annual or special, shall be held illegal, for want of a due notice to all the persons qualified to vote thereat, unless it shall appear that the omission to give such notice, was wilful and fraudulent.<sup>54</sup>

§ 64. No tax to be voted by a district meeting for building, hiring, purchasing a school-house, shall exceed the sum of four hundred dollars, unless the commissioners of common schools of the town, in which the school-house is to be situated, shall certify in writing their opinion that a larger sum ought to be raised, and shall specify the sum; in which case, a sum not exceeding the sum so specified, shall be raised.<sup>55</sup>

ART. 5.  
Limitation of tax.

§ 65. If the commissioners of common schools in any town, shall require in writing, the attendance of the commissioners of any other town or towns, at a joint meeting, for the purpose of altering a school district, formed from their respective towns, and a major part of the commissioners notified shall refuse or neglect to attend, the commissioners attending, by a majority of votes, may call a special district meeting of such district, for the purpose of deciding on such proposed alteration; and the decision of such meeting shall be as valid, as if made by the commissioners of all the towns interested, but shall extend no further than to dissolve the district formed from such towns.<sup>56</sup>

Joint meeting of commissioners.

§ 66. Whenever a school-house shall have been built or purchased for a district, the site of such school-house shall not be changed, nor the building thereon be removed, as long as the district shall remain unaltered; nor after such alteration, without the consent in writing of the commissioners of common schools of the town or towns, within which, the district shall be situated.

Site of school-house, how altered.

§ 67. When a new district shall be formed from one or more districts, possessed of a school-house; and in cases where any district in which such new district shall be in whole or in part formed, shall be entitled to other property than its school-house; then the commissioners of common schools, at the time of forming such new district, shall ascertain and determine the amount justly due to such former district, from any district out of which it may have been in whole or in part formed, as the proportion of such new district of the value of the school-house and other property belonging to the former district, at the time of such division.

Altering district, how school-house &c. disposed of.

§ 68. Such proportion shall be ascertained, according to the taxable property of the inhabitants of the respective parts of such former district, at the time of the division, by the best evidence in the power of the commissioners; and deduction shall be made therein for any taxes due from the former district.

Proportion, how ascertained.

§ 69. Such proportion, when ascertained, shall be levied, raised and collected, with the fees for collection, by the trustees of the district retaining the school-house or other property of the former district, upon the taxable inhabitants of their district, in the same man-

How levied and applied.

(55) Laws of 1819, p. 198, § 20. (56) Laws of 1822, p. 288, § 6.

TITLE 2

Penalty for not serving notice.

Inhabitants when to assemble.

Qualification of voters.

Powers of district meeting.

Duty of district clerk.

§ 58. Every taxable inhabitant to whom notice shall have been properly delivered or neglect to serve the notice in the district joined, shall for every such offence

their district for which shall be paid to them towards proportions so paid to the inhabitants who of any tax that may

§ 59. Whenever any district meeting is prescribed in the preceding section, the duty of the inhabitants of the district shall be to assemble together at the time.

each school district, at the annual meeting of such district, for the appointment, and

§ 60. No person shall be a voter unless he shall be a freeholder, and shall have been assessed the district tax to pay taxes thereon above such as are levied on freeholders, liable to the same as other persons residing in such district, to supply such deficit the sum

shall be vacated by the death, refusal to serve, or incapacity of any such officer, and shall not be supplied by a district meeting within the year, the commissioners of common schools of the district, or any person residing in such district, to supply such

§ 61. Every person duly chosen or appointed to any such office, who without sufficient cause, shall refuse to serve therein, shall forfeit the sum of five dollars; and every person so chosen or appointed, who not having refused to accept, shall neglect to perform the duties of his office, shall forfeit the sum of ten dollars.

§ 73. Any person chosen or appointed to any such office, may resign the same in the manner provided in Chapter eleventh, Title third, section thirty-third of this Act; and the acceptance of such resignation, shall be a bar to the recovery of either of the penalties mentioned in the preceding section. The justices accepting the resignation shall give notice thereof, to the clerk, or to one of the trustees of the school district, to which the officer resigning shall belong.

§ 74. It shall be the duty of the clerk of each school district, 1. To record the proceedings of his district in a book to be provided for that purpose by the district, and to enter therein true copies of all reports made by the trustees of his district, to the commissioners of common schools: 2. To give notice of the time and place for special district meetings, when the same shall be called by the trustees of the district, to each inhabitant of such district liable to pay taxes, at least five days before such meeting shall be held, in the manner prescribed in the fifty-sixth section of this Title: 3. To affix a notice in writing of the time and place for any adjourned district meeting, when the same shall be adjourned for a longer time than one month, in at least four of the most public places of

at least five days before the time appointed for such ad- ART. 5.

to give notice of every annual district meeting :  
 to serve all records, books, and papers, belonging  
 to the same to his successor in office, in the  
 penalties provided by law, in relation to

the trustees of every school district, Duty of trust-  
tees.

of the inhabitants of such districts lia-  
 ble, if they shall deem it necessary and proper :  
 to call special, annual and adjourned meetings, in the  
 manner provided in the last preceding section, if there be no clerk  
 or he be absent or incapable of acting :

to make out a tax list of every district tax, voted by any such  
 meeting, containing the names of all the taxable inhabitants residing  
 in the district at the time of making out the list, and the amount of  
 tax payable by each inhabitant, set opposite to his name :

4. To annex to such tax list a warrant, directed to the collector of  
 the district, for the collection of the sums in such list mentioned, with  
 five cents on each dollar thereof, for his fees :

5. To purchase or lease a site for the district school-house, as de-  
 signated by a meeting of the district, and to build, hire or purchase,  
 keep in repair, and furnish such school-house with necessary fuel and  
 appendages, out of the funds collected and paid to them for such pur-  
 poses :

6. To have the custody and safe keeping of the district school-  
 house :

7. To contract with and employ all teachers in the district :

8. To pay the wages of such teachers when qualified, out of the  
 monies which shall come into their hands from the commissioners of  
 common schools, so far as such monies shall be sufficient for that pur-  
 pose ; and to collect the residue of such wages, excepting such sums  
 as may have been collected by the teachers, from all persons liable  
 therefor :

9. To divide the public monies received by them, whenever au-  
 thorised by a vote of their district, into not exceeding four portions  
 for each year ; to assign and apply one of such portions to each quar-  
 ter or term during which a school shall be kept in such district, for  
 the payment of the teacher's wages, during such quarter or term ; and  
 to collect the residue of such wages, not paid by the proportion of  
 public money allotted for that purpose, from the persons liable there-  
 for, as above provided :

(58) Laws of 1819, p. 200, § 28.

such district, at least five days before the time appointed for such ad-  
 journed meeting : ART. 5.

4. To give the like notice of every annual district meeting :

5. To keep and preserve all records, books, and papers, belonging to his office, and to deliver the same to his successor in office, in the manner and subject to the penalties provided by law, in relation to the town clerk.<sup>68</sup>

§ 75. It shall be the duty of the trustees of every school district, Duty of trustees. and they shall have power,

1. To call special meetings of the inhabitants of such districts liable to pay taxes, whenever they shall deem it necessary and proper :

2. To give notice of special, annual and adjourned meetings, in the manner prescribed in the last preceding section, if there be no clerk of the district, or he be absent or incapable of acting :

3. To make out a tax list of every district tax, voted by any such meeting, containing the names of all the taxable inhabitants residing in the district at the time of making out the list, and the amount of tax payable by each inhabitant, set opposite to his name :

4. To annex to such tax list a warrant, directed to the collector of the district, for the collection of the sums in such list mentioned, with five cents on each dollar thereof, for his fees :

5. To purchase or lease a site for the district school-house, as designated by a meeting of the district, and to build, hire or purchase, keep in repair, and furnish such school-house with necessary fuel and appendages, out of the funds collected and paid to them for such purposes :

6. To have the custody and safe keeping of the district school-house :

7. To contract with and employ all teachers in the district :

8. To pay the wages of such teachers when qualified, out of the monies which shall come into their hands from the commissioners of common schools, so far as such monies shall be sufficient for that purpose ; and to collect the residue of such wages, excepting such sums as may have been collected by the teachers, from all persons liable therefor :

9. To divide the public monies received by them, whenever authorised by a vote of their district, into not exceeding four portions for each year ; to assign and apply one of such portions to each quarter or term during which a school shall be kept in such district, for the payment of the teacher's wages, during such quarter or term ; and to collect the residue of such wages, not paid by the proportion of public money allotted for that purpose, from the persons liable therefor, as above provided :

(68) Laws of 1819, p. 200, § 28.



such district, at least five days before the time appointed for such ad-  
 journed meeting : ART. 5.

4. To give the like notice of every annual district meeting :

5. To keep and preserve all records, books, and papers, belonging to his office, and to deliver the same to his successor in office, in the manner and subject to the penalties provided by law, in relation to the town clerk.<sup>68</sup>

§ 75. It shall be the duty of the trustees of every school district, Duty of trustees. and they shall have power,

1. To call special meetings of the inhabitants of such districts liable to pay taxes, whenever they shall deem it necessary and proper :

2. To give notice of special, annual and adjourned meetings, in the manner prescribed in the last preceding section, if there be no clerk of the district, or he be absent or incapable of acting :

3. To make out a tax list of every district tax, voted by any such meeting, containing the names of all the taxable inhabitants residing in the district at the time of making out the list, and the amount of tax payable by each inhabitant, set opposite to his name :

4. To annex to such tax list a warrant, directed to the collector of the district, for the collection of the sums in such list mentioned, with five cents on each dollar thereof, for his fees :

5. To purchase or lease a site for the district school-house, as designated by a meeting of the district, and to build, hire or purchase, keep in repair, and furnish such school-house with necessary fuel and appendages, out of the funds collected and paid to them for such purposes :

6. To have the custody and safe keeping of the district school-house :

7. To contract with and employ all teachers in the district :

8. To pay the wages of such teachers when qualified, out of the monies which shall come into their hands from the commissioners of common schools, so far as such monies shall be sufficient for that purpose ; and to collect the residue of such wages, excepting such sums as may have been collected by the teachers, from all persons liable therefor :

9. To divide the public monies received by them, whenever authorised by a vote of their district, into not exceeding four portions for each year ; to assign and apply one of such portions to each quarter or term during which a school shall be kept in such district, for the payment of the teacher's wages, during such quarter or term ; and to collect the residue of such wages, not paid by the proportion of public money allotted for that purpose, from the persons liable therefor, as above provided :

(68) Laws of 1819, p. 200, § 28.

## TITLE 2.

Penalty for not serving notice.

§ 58. Every taxable inhabitant to whom a notice of a district meeting, shall have been properly delivered for service, who shall refuse or neglect to serve the notice in the manner above in this Article enjoined, shall for every such offence forfeit the sum of five dollars.<sup>53</sup>

Inhabitants when to assemble.

§ 59. Whenever any district meeting shall be called, in the manner prescribed in the preceding sections of this Article, it shall be the duty of the inhabitants of the district, qualified to vote at district meetings, to assemble together at the time and place mentioned in the notice.<sup>54</sup>

Qualification of voters.

§ 60. No person shall vote at any school district meeting, unless he shall be a freeholder in the town where he votes, or shall have been assessed the same year in which he votes, or the preceding year, to pay taxes therein; or shall possess personal property over and above such as is exempt from execution, to the amount of fifty dollars, liable to taxation in the district: and every person not so qualified, who shall vote at any such meeting, shall for each offence forfeit the sum of ten dollars.<sup>54</sup>

Powers of district meeting.

§ 61. The inhabitants so entitled to vote, when so assembled in such district meeting, or when lawfully assembled at any other district meeting, shall have power, by a majority of the votes of those present,

1. To appoint a moderator for the time being:
2. To adjourn from time to time, as occasion may require:
3. To choose a district clerk, three trustees, and one district collector, at their first meeting, and as often as such offices, or either of them, become vacated:
4. To designate a site for the district school-house:
5. To lay such tax on the taxable inhabitants of the district, as the meeting shall deem sufficient to purchase or lease a suitable site for a school-house, and to build, hire, or purchase such school-house, and to keep in repair and furnish the same with necessary fuel and appendages:
6. To repeal, alter, and modify their proceedings from time to time, as occasion may require.<sup>54</sup>

Annual meeting.

§ 62. In each school district, an annual meeting shall be held at the time and place previously appointed; and at the first district meeting, and at each annual meeting, the time and place of holding the next annual meeting shall be fixed.<sup>54</sup>

Special meeting.

§ 63. A special meeting shall be held in each district whenever called by the trustees; and the proceedings of no district meeting, annual or special, shall be held illegal, for want of a due notice to all the persons qualified to vote thereat, unless it shall appear that the omission to give such notice, was wilful and fraudulent.<sup>54</sup>

§ 64. No tax to be voted by a district meeting for building, hiring, or purchasing a school-house, shall exceed the sum of four hundred dollars, unless the commissioners of common schools of the town, in which the school-house is to be situated, shall certify in writing their opinion that a larger sum ought to be raised, and shall specify the sum; in which case, a sum not exceeding the sum so specified, shall be raised.<sup>55</sup>

ART. 5.  
Limitation of tax.

§ 65. If the commissioners of common schools in any town, shall require in writing, the attendance of the commissioners of any other town or towns, at a joint meeting, for the purpose of altering a school district, formed from their respective towns, and a major part of the commissioners notified shall refuse or neglect to attend, the commissioners attending, by a majority of votes, may call a special district meeting of such district, for the purpose of deciding on such proposed alteration; and the decision of such meeting shall be as valid, as if made by the commissioners of all the towns interested, but shall extend no further than to dissolve the district formed from such towns.<sup>56</sup>

Joint meeting of commissioners.

§ 66. Whenever a school-house shall have been built or purchased for a district, the site of such school-house shall not be changed, nor the building thereon be removed, as long as the district shall remain unaltered; nor after such alteration, without the consent in writing of the commissioners of common schools of the town or towns, within which, the district shall be situate.

Site of school house, how altered.

§ 67. When a new district shall be formed from one or more districts, possessed of a school-house; and in cases where any district from which such new district shall be in whole or in part formed, shall be entitled to other property than its school-house; then the commissioners of common schools, at the time of forming such new district, shall ascertain and determine the amount justly due to such new district, from any district out of which it may have been in whole or in part formed, as the proportion of such new district of the value of the school-house and other property belonging to the former district, at the time of such division.

Altering district, how school-house &c. disposed of.

§ 68. Such proportion shall be ascertained, according to the taxable property of the inhabitants of the respective parts of such former district, at the time of the division, by the best evidence in the power of the commissioners; and deduction shall be made therein for any debts due from the former district.

Proportion, how ascertained.

§ 69. Such proportion, when ascertained, shall be levied, raised and collected, with the fees for collection, by the trustees of the district retaining the school-house or other property of the former district, upon the taxable inhabitants of their district, in the same man-

How levied and applied.

(55) Laws of 1819, p. 198, § 20. (56) Laws of 1822, p. 238, § 6.

**TITLE 2** ner, as if the same had been authorised by a vote of their district for the building of a school-house; and when collected, shall be paid to the trustees of the new district, to be applied by them towards procuring a school-house for their district; and the monies so paid to the new district, shall be allowed to the credit of the inhabitants who were taken from the former district, in reduction of any tax that may be imposed for erecting a school-house.

District officers. Tenure.

§ 70. The clerk, trustees, and collector of each school district, shall hold their respective offices, until the annual meeting of such district, next following the time of their appointment, and until others shall be elected in their places.<sup>57</sup>

Vacancies, how filled.

§ 71. In case any such office shall be vacated by the death, refusal to serve, removal out of the district, or incapacity of any such officer, and the vacancy shall not be supplied by a district meeting within one month thereafter, the commissioners of common schools of the town, may appoint any person residing in such district, to supply such vacancy.<sup>57</sup>

Forfeitures.

§ 72. Every person duly chosen or appointed to any such office, who, without sufficient cause, shall refuse to serve therein, shall forfeit the sum of five dollars; and every person so chosen or appointed, and not having refused to accept, who shall neglect to perform the duties of his office, shall forfeit the sum of ten dollars.<sup>57</sup>

Resignations.

§ 73. Any person chosen or appointed to any such office, may resign the same in the manner provided in Chapter eleventh, Title third, section thirty-third of this Act; and the acceptance of such resignation, shall be a bar to the recovery of either of the penalties mentioned in the preceding section. The justices accepting the resignation shall give notice thereof, to the clerk, or to one of the trustees of the school district, to which the officer resigning shall belong.

Duty of district clerk.

§ 74. It shall be the duty of the clerk of each school district,

1. To record the proceedings of his district in a book to be provided for that purpose by the district, and to enter therein true copies of all reports made by the trustees of his district, to the commissioners of common schools:

2. To give notice of the time and place for special district meetings, when the same shall be called by the trustees of the district, to each inhabitant of such district liable to pay taxes, at least five days before such meeting shall be held, in the manner prescribed in the fifty-sixth section of this Title:

3. To affix a notice in writing of the time and place for any adjourned district meeting, when the same shall be adjourned for a longer time than one month, in at least four of the most public places of

such district, at least five days before the time appointed for such ad-  
 journed meeting : ART. 5.

4. To give the like notice of every annual district meeting :

5. To keep and preserve all records, books, and papers, belonging to his office, and to deliver the same to his successor in office, in the manner and subject to the penalties provided by law, in relation to the town clerk.<sup>68</sup>

§ 75. It shall be the duty of the trustees of every school district, Duty of trustees. and they shall have power,

1. To call special meetings of the inhabitants of such districts liable to pay taxes, whenever they shall deem it necessary and proper :

2. To give notice of special, annual and adjourned meetings, in the manner prescribed in the last preceding section, if there be no clerk of the district, or he be absent or incapable of acting :

3. To make out a tax list of every district tax, voted by any such meeting, containing the names of all the taxable inhabitants residing in the district at the time of making out the list, and the amount of tax payable by each inhabitant, set opposite to his name :

4. To annex to such tax list a warrant, directed to the collector of the district, for the collection of the sums in such list mentioned, with five cents on each dollar thereof, for his fees :

5. To purchase or lease a site for the district school-house, as designated by a meeting of the district, and to build, hire or purchase, keep in repair, and furnish such school-house with necessary fuel and appendages, out of the funds collected and paid to them for such purposes :

6. To have the custody and safe keeping of the district school-house :

7. To contract with and employ all teachers in the district :

8. To pay the wages of such teachers when qualified, out of the monies which shall come into their hands from the commissioners of common schools, so far as such monies shall be sufficient for that purpose ; and to collect the residue of such wages, excepting such sums as may have been collected by the teachers, from all persons liable therefor :

9. To divide the public monies received by them, whenever authorised by a vote of their district, into not exceeding four portions for each year ; to assign and apply one of such portions to each quarter or term during which a school shall be kept in such district, for the payment of the teacher's wages, during such quarter or term ; and to collect the residue of such wages, not paid by the proportion of public money allotted for that purpose, from the persons liable therefor, as above provided :

(68) Laws of 1819, p. 200, § 28.

## TITLE 2.

10. To exempt from the payment of the wages of teachers, such indigent persons within the district, as they shall think proper :

11. To certify such exemptions, and deliver the certificate thereof, to the clerk of the district, to be kept on file in his office :

12. To ascertain by examination of the school lists kept by such teachers, the number of days for which each person not so exempted shall be liable to pay for instruction, and the amount payable by each person :

13. To make out a rate bill, containing the name of each person so liable, and the amount for which he is liable, adding thereto five cents on each dollar of the sum due from him, for collector's fees ; and to annex thereto a warrant for the collection thereof :

14. To deliver such rate bill, with the warrant annexed, to the collector of the district, who shall execute the same in like manner with other warrants directed to him, by them.<sup>59</sup>

Taxes how apportioned.

§ 76. In making out a tax list, the trustees shall apportion the tax on all the taxable inhabitants within the district, according to the valuations of the taxable property which shall be owned or possessed by them, at the time of making out the list within the district, or which being intersected by the boundaries of the district, shall be so owned or possessed by them, partly in such district and partly in any adjoining district ; but where taxable property shall be owned by one inhabitant, and possessed by another, only one of them shall be taxed therefor.<sup>60</sup>

Ib.

§ 77. Every person owning or holding any real property within any school district, who shall improve and occupy the same by his agent or servant, shall, in respect to the liability of such property to taxation, be considered a taxable inhabitant of such district, in the same manner as if he actually resided therein.<sup>60</sup>

It

§ 78. If there shall be any real property within a district, cultivated and improved, but not occupied by a tenant, or agent, and the owner of which shall not reside within the district, nor be liable to be taxed for the same in an adjoining district, such owner shall be taxable therefor, in the same manner as if he were an inhabitant of the district ; but no portion of such property, but such as shall be actually cleared and cultivated, shall be included in such taxation.

Valuations how ascertained.

§ 79. The valuations of taxable property shall be ascertained, as far as possible, from the last assessment roll of the town ; and no person shall be entitled to any reduction in the valuation of such property, as so ascertained, unless he shall give notice of his claim to such reduction, to the trustees of the district, before the tax list shall be made out.<sup>60</sup>

(59) Compiled with some amendments from laws of 1819, p. 199, § 20, 23, 25, & 26, except subdivision 9, which is entirely new. (60) Ib. § 25.

§ 80. In every case where such reduction shall be duly claimed, and in every case where the valuation of taxable property cannot be ascertained from the last assessment roll of the town, the trustees shall ascertain the true value of the property to be taxed, from the best evidence in their power, giving notice to the persons interested, and proceeding in the same manner, as the town assessors are required by law to proceed, in the valuations of taxable property.<sup>61</sup>

ART. 5.  
Ib.

§ 81. Every taxable inhabitant of a district, who shall have been, within four years, set off from any other district, by the commissioners of common schools, without his consent, and shall, within that period, have actually paid in such other district, under a lawful assessment therein, a district tax for building a school-house, shall be exempted by the trustees of the district where he shall reside, from the payment of any tax for building a school-house therein.<sup>62</sup>

Exemption in certain cases.

§ 82. Every district tax shall be assessed, and the tax list thereof be made out by the trustees, within one month after the district meeting in which the tax shall have been voted.

Time of making tax list.

§ 83. Where any district tax, for the purpose of purchasing a site for a school-house, or for purchasing, or building, keeping in repair, or furnishing such school-house with necessary fuel and appendages, shall be lawfully assessed and paid by any person, on account of any real property, whereof he is only tenant at will, or for three years, or for a less period of time, such tenant may charge the owner of such real estate with the amount of the tax so paid by him, unless some agreement to the contrary, shall have been made by such tenant.<sup>63</sup>

Remedy of tenant against owner.

§ 84. Where the necessary fuel for the school of any district shall not be provided, by means of a tax on the inhabitants of the district, it shall be the duty of every person sending a child to the school, to provide his just proportion of such fuel.<sup>64</sup>

Fuel how provided.

§ 85. The proportion of fuel which every person sending children to the school, shall be liable to provide, shall be determined by the trustees of the district, according to the number of children sent by each; but such indigent persons as in the judgment of the trustees, shall be unable to provide the same, shall be exempted from such liability.<sup>64</sup>

Proportion how determined.

§ 86. If any person liable to provide such fuel, shall omit to provide the same, on notice from any one of such trustees, it shall be the duty of the trustees to furnish such fuel, and to charge the person so in default the value of, or amount paid for, the fuel furnished.<sup>64</sup>

When trustees to furnish, and charge delinquent.

§ 87. Such value or amount may be added to the rate bill of the monies due for instruction, and may be collected therewith, and in

(61) Laws of 1819, p. 202, § 25. (62) Ib. § 31. (63) Ib. § 32. (64) Laws of 1822, p. 289, § 12.

**TITLE 2.** the same manner : or the trustees may sue for and recover the same, in their own names, with costs of suit.<sup>65</sup>

**Warrant.** § 88. The warrant annexed to any tax list, or rate bill, shall be under the hands and seals of the trustees, or a majority of them, and shall command the collector to collect from every person in such tax list, or rate bill, named, the sum therein set opposite to his name and in case any inhabitant shall not pay such sum, on demand, to levy the same of his goods and chattels, in the same manner as on executions issued by a justice of the peace, together with his fees, and to make a return of such warrant within thirty days after the delivery thereof.<sup>66</sup>

**Trustees may renew, or sue delinquent.** § 89. If the sum or sums of money, payable by any person named in such tax list, or rate bill, shall not be paid by him, or collected by such warrant within the time therein limited, it shall and may be lawful for the trustees to renew such warrant, in respect to such delinquent person ; or in case such person shall not reside within their district, at the time of making out a tax list or rate bill, or shall not reside therein at the expiration of such warrant, and no goods or chattels can be found therein whereon to levy the same ; the trustees may sue for and recover the same, in their name of office.<sup>66</sup>

**Proceeding when commissioners withhold money.** § 90. If the monies apportioned to a district, by the commissioners of common schools, shall not have been paid, it shall be the duty of the trustees thereof, to bring a suit for the recovery of the same, with interest, against the commissioner in whose hands the same shall be, or to pursue such other remedy for the recovery thereof, as is or shall be given by law ; and the monies, when recovered, shall be applied by them in the same manner as if they had been paid without suit.<sup>67</sup>

**Annual report of trustees.** § 91. The trustees of each school district shall, after the first day of January, in every year, and on or before the first day of March thereafter, make and transmit a report, in writing, to the commissioners of common schools for such town, dated on the first day of January, in the year in which it shall be transmitted.<sup>68</sup>

**How made.** § 92. Every such report, signed and certified by a majority of the trustees making it, shall be delivered to the town clerk, and shall specify,

**Its contents.** 1. The whole time any school has been kept in their district, during the year ending on the day previous to the date of such report, and distinguishing what portion of the time such school has been kept by qualified teachers :

2. The amount of monies received from the commissioners of common schools, during such year, and the manner in which such monies have been expended :

(65) Laws of 1822, p. 289, § 12. (66) Laws of 1819, p. 202, § 25. (67) *Ib.* § 15. (68) *Ib.* § 27.



3. The number of children taught in the district during such year : ART. 5.

4. The number of children residing in the district, on the last day of December, previous to the making of such report, over the age of five years, and under sixteen years of age, (except Indian children otherwise provided for by law,) and the names of the parents, or other persons, with whom such children shall respectively reside, and the number of children residing with each.<sup>69</sup>

§ 93. No teacher shall be deemed a qualified teacher, within the meaning of this Title, who shall not have received, and shall not then hold, a certificate of qualification, dated within one year, from the inspectors of common schools for the town in which he shall be employed. Qualified teachers.

§ 94. Where a school district is formed out of two or more adjoining towns, it shall be the duty of the trustees of such district, to make and transmit a report to the commissioners of common schools, for each of the towns out of which such district shall be formed, within the same time, and in the same manner, as is required in sections ninety-one and ninety-two of this Title; distinguishing the number of children over the age of five and under sixteen years, residing in each part of a district which shall be in a different town from the other parts, and the number of children taught, and the amount of school monies received for each part of the district.<sup>70</sup> District formed from two towns, how to report.

§ 95. Where any neighborhood shall be set off by itself, the inhabitants of such separate neighborhood shall annually meet together, and choose one trustee; whose duty it shall be, every year, within the time limited for making district reports, to make and transmit a report, in writing, bearing date on the first day of January, in the year in which it shall be transmitted, to the commissioners of common schools of the town from which such neighborhood shall be set off, specifying the number of children over the age of five and under sixteen years, residing in such neighborhood, the amount of monies received from the commissioners since the date of his last report, and the manner in which the same have been expended.<sup>70</sup> Separate neighborhoods, how to report.

§ 96. Every trustee of a school district, or separate neighborhood, who shall sign a false report to the commissioners of common schools of his town, with the intent of causing such commissioners to apportion and pay to his district, or neighborhood, a larger sum than its just proportion of the school monies of the town, shall, for each offence, forfeit the sum of twenty-five dollars, and shall also be deemed guilty of a misdemeanor.<sup>71</sup> Penalty for false report.

§ 97. All property now vested in the trustees of any school district, for the use of schools in the district, or which may be hereafter Property of districts, how held.

(69) *Ib.* Laws of 1823, p. 238, § 1 & 2. (70) *Laws of 1819*, p. 208, § 27. (71) *Ib.* § 28.

**TITLE 2** transferred to such trustees for that purpose, shall be held by them as a corporation.<sup>72</sup>

**Trustees to account.**

§ 98. The trustees of each school district shall, on the expiration of their offices, render to their successors in office, and to the district, at a district meeting, a just and true account, in writing, of all monies received by them respectively, for the use of their district, and of the manner in which the same shall have been expended; which account shall be delivered to the district clerk, and be filed by him.<sup>72</sup>

**Balance paid to successors.**

§ 99. Any balance of such monies, which shall appear from such account to remain in the hands of the trustees, or either of them, at the time of rendering the account, shall immediately be paid to some one or more of their successors in office.<sup>73</sup>

**Forfeiture for neglect.**

§ 100. Every trustee who shall refuse or neglect to render such account, or to pay over any balance so found in his hands, shall, for each offence, forfeit the sum of twenty-five dollars.<sup>73</sup>

**How prosecuted.**

§ 101. It shall be the duty of his successors in office to prosecute without delay, in their name of office, for the recovery of such forfeiture; and the monies recovered shall be applied by them to the use and benefit of their district school.<sup>73</sup>

**Remedy against former trustees.**

§ 102. Such successors shall also have the same remedies for the recovery of any unpaid balance, in the hands of a former trustee, or his representatives, as are given to the commissioners of common schools against a former commissioner and his representatives; and the monies recovered shall be applied by them to the use of their district, in the same manner as if they had been paid without suit.<sup>73</sup>

**Bonds to be delivered.**

§ 103. All bonds or securities, taken by the trustees from the collector of their district, shall, on the expiration of their office, be delivered over by them to their successors in office.<sup>73</sup>

**Fees of collector.**

§ 104. The collector of each school district shall be allowed five cents on every dollar collected and paid over by him.<sup>74</sup>

**His duty in collecting taxes.**

§ 105. It shall be his duty to collect and pay over to the trustees of his district, some or one of them, all monies which he shall be required by warrant to collect, within the time limited in such warrant for its return, and to take the receipt of such trustee or trustees for such payment.<sup>74</sup>

**To give bond.**

§ 106. Every collector of a school district shall, before receiving any warrant for the collection of monies, execute a bond to the trustees of his district, when required by them, in their corporate name, with one or more sureties, to be approved by one or more of the trustees, in double the amount of taxes to be collected, conditioned for the due and faithful execution of the duties of his office.<sup>74</sup>

§ 107. If any collector shall not execute such bond within the time allowed him by the trustees for that purpose, which shall not be less than ten days, his office shall be vacated; and the trustees may appoint any other person residing in the district, as collector in his place.<sup>75</sup> ART. 6  
If not, how  
to proceed.

§ 108. If by the neglect of the collector, any monies shall be lost to his district, which might have been collected within the time limited in the warrant delivered to him for their collection, he shall forfeit to his district the full amount of the monies thus lost, and shall account for and pay over the same to the trustees of his district, in the same manner as if they had been collected.<sup>75</sup> Forfeiture  
for neglect.

§ 109. For the recovery of all forfeitures, and of balances in the hands of a collector which he shall have neglected to pay over, the trustees of the district may sue in their name of office, and shall be entitled to recover the same with interest and costs; and the monies recovered shall be applied by them in the same manner as if paid without suit.<sup>75</sup> Trustees  
may sue.

§ 110. Any person conceiving himself aggrieved, in consequence of any decision made, or any act done, Appeal to  
commission-  
ers.

1. By any school district meeting :

2. By the trustees of any district, or the refusal of such trustees to do any act, or perform any duty required by law :

May appeal to the commissioners of common schools of the town, whose decision thereon, after a hearing of the parties, shall be final.

§ 111. The trustees of any school district, or any other persons conceiving themselves aggrieved, by the commissioners of common schools, in forming or altering, or in refusing to form or alter any school district, or in refusing to pay any school monies to any such district, may appeal to the superintendent of common schools, whose decision thereon shall be final.<sup>75</sup> Ib. to super-  
intendent.

#### ARTICLE SIXTH.

##### *Of certain Duties of the County Clerk.*

Sec. 112. County clerk to report to superintendent of common schools, what, and when.

113. Forfeiture for neglecting it.

114. Who to prosecute for it, and where paid when recovered.

115. Duty of county clerk when commissioners do not report.

§ 112. It shall be the duty of each county clerk, between the first day of October and the first day of December, in every year, to make and transmit to the superintendent of common schools, a report in writing, containing the whole number of towns in his county, distinguishing the towns from which the necessary reports have been made To transmit  
school re-  
ports.

TITLE 2 to him by the commissioners of common schools, and containing a certified copy of all such reports.<sup>77</sup>

Penalty for neglect.

§ 113. Every clerk who shall refuse or neglect to make such report, within the period so limited, shall, for each offence, forfeit the sum of one hundred dollars to the use of the school fund of the state.<sup>78</sup>

How prosecuted and applied.

§ 114. It shall be the duty of the superintendent of common schools to prosecute without delay, in his name of office, for such forfeiture and to pay the monies recovered, into the treasury of the state, to the credit of the school fund.<sup>78</sup>

Notice to town clerks.

§ 115. It shall be the duty of each county clerk, immediately after the first day of October in every year, in case the commissioners of common schools of any town in his county shall have neglected to make to him their annual report, to give notice of such neglect to the clerk of the town, who shall immediately assemble such commissioners for the purpose of making their report.<sup>77</sup>

#### ARTICLE SEVENTH.

##### *Local Regulations respecting Common Schools.*

- SEC. 116. Duty of clerk of New-York in relation to money apportioned to that city.  
 117. Sum to be raised by corporation, and how.  
 118. What sum to be deposited to credit of commissioners of school money  
 119. Commissioners of school money, how appointed, number, &c.  
 120. How vacancies supplied.  
 121. Who ineligible to office.  
 122. Corporation to designate schools entitled to monies.  
 123. Trustees of schools designated to report ; its contents.  
 124. Duties of commissioners.  
 125. Apportionment of school monies, how to be made.  
 126. Forfeiture for neglecting to produce certain proof when required.  
 127. Society or school may appeal from commissioners, and to whom.  
 128. Four first wards of Troy to remain one district.  
 129. Trustees of ; how many ; by whom, and when appointed.  
 130. Trustees to take an oath ; before whom, and where to be filed.  
 131. Forfeiture for neglecting to file it, within what time.  
 132. Commissioners to pay to chamberlain money that district may be entitled to  
 133. Common council may raise by tax money for certain purposes.  
 134. Certain aldermen not considered members for purposes of preceding sections.  
 135. Trustees to fix price of tuition, and who shall be exempt from payment.  
 136. How many commissioners and inspectors to be annually chosen.  
 137, 138 & 139. Money allowed to city of Hudson, how to be apportioned, &c.  
 140. Treasurer of Columbia to transmit to supervisors a copy of his apportionment  
 141. Supervisors to make certain addition to amount to be raised in districts.  
 142. Collector to pay over monies collected to commissioners of Hudson.  
 143. How and in what proportion they shall distribute it.  
 144. Assessors to designate inhabitants who reside in districts.  
 145. Money assigned to city of Albany, to be paid to trustees of Lancaster school.  
 146. They shall account to county treasurer.  
 147. Money assigned to Schenectady, how to be apportioned.  
 148. Duty of treasurer of Schenectady county in relation thereto.  
 149. Money how to be distributed.  
 150. Annual reports to be made by trustees and teachers.  
 151. Commissioners to divide certain territory into districts.  
 152. Trustees of Lancaster schools of Albany and Schenectady, and the corporation of Hudson, to report to superintendent.

(77) Laws of 1819, p. 207, § 34. (78) Laws of 1822, p. 239, § 9.

- Sec. 153. Poughkeepsie, and certain part of Catakil, each to be a district.  
 154. To whom the monies for those districts to be paid.  
 155. Who shall be trustees of those districts.  
 156. Treasurer of Oneida to pay to treasurer of Utica, its proportion of monies.  
 157. Village of Utica one district ; its trustees to report and to account.  
 158. Trustees may raise by tax, money to keep school-house in repair.  
 159 & 160. Monies appropriated to Flatbush, by whom and to whom paid, &c.  
 161. Trustees of Erasmus Hall academy, how to account.  
 162. Trustees of Montgomery academy, to be trustees of district number 7.  
 163. When commissioners of Flushing to pay managers of Free School association in district number 5, the monies apportioned to that district.  
 164. Managers to report to commissioners.  
 165. Provisions of this Title to what places and persons to extend.

§ 116. Whenever the clerk of the city and county of New-York, <sup>Clerk of New-York.</sup> shall receive notice from the superintendent of common schools, of the amount of the monies apportioned to the city of New-York, for the support and encouragement of common schools therein, he shall immediately lay the same before the corporation of the city, in common council convened.<sup>79</sup>

§ 117. The corporation shall annually raise and collect, by tax <sup>Corporation to raise money.</sup> upon the inhabitants of the city, a sum of money equal to the sum specified in such notice, at the same time, and in the same manner as the contingent charges of the city are levied and collected.<sup>79</sup>

§ 118. The corporation shall, on or before the first day of May in <sup>Who sited.</sup> every year, direct that a sum of money equal to the amount last received by the chamberlain from the common school fund, be deposited by him, together with the sum so received from the school fund, in one of the incorporated banks in the city, to the credit of the commissioners of school money for the city, and subject only to the drafts of the commissioners, drawn payable to the order of the treasurers of the respective societies or schools entitled thereto, or to some person duly authorised by the trustees of such societies or schools.<sup>79</sup>

§ 119. The corporation shall, once in every three years, after the month of January in the year one thousand eight hundred and twenty-five, appoint from the inhabitants of the city, one from each ward, to be commissioners of school money, who shall hold their offices for three years, and until others are appointed in their places ; and who, before they enter upon the duties thereof, shall take the oath of office prescribed in the constitution of this state.<sup>80</sup> <sup>Commissioners how appointed, &c.</sup>

§ 120. All vacancies occurring in the office of commissioner, shall <sup>Vacancies.</sup> be supplied by the corporation ; and each person appointed to fill a vacancy, shall hold his office for the residue of the term for which his predecessor was appointed.<sup>81</sup>

§ 121. No trustee or other officer of any society or school, which shall be entitled to receive a share of the school monies, shall be appointed a commissioner of school monies.<sup>81</sup> <sup>Who ineligible.</sup>

(79) Laws of 1824, p. 337, § 1 & 2. (80) Ib. § 3 ; Laws of 1826, p. 93. (81) Laws of 1824, p. 336, § 3.

## TITLE 2.

Monies, how distributed.

§ 122. The corporation shall, once at least in three years, by ordinance, designate the societies or schools which shall be entitled to receive a share of the school monies, and prescribe the rules and restrictions under which such monies shall be received by such societies or schools respectively. Such ordinance shall be published in two or more of the public newspapers of the city.<sup>82</sup>

When trustees to report; contents of report.

§ 123. The trustees of every society or school thus designated shall, on or before the fifteenth day of May in every year, make a report in writing, under their corporate seal, and signed by their presiding officer and secretary, to the commissioners of school money; which report shall state,

1. The average number of scholars over four and under sixteen years of age, which shall have been taught, free of expense to such scholars, in their school during the year preceding the first of May; which number shall be ascertained by adding to the number of children on register at the commencement of each quarter, the number admitted during that quarter, and the total shall be considered the average for that quarter :

2. The average number that has actually attended such schools during the year, to be ascertained by the teachers keeping an exact account of the number of scholars present every school time, or half day; which being added together, and divided by the whole number of school times in the year, shall be considered the average of attending scholars; which average shall be sworn or affirmed to by the teachers :

3. The times during which such schools have been kept open during the year :

4. The amount of monies last received from the commissioners of school money, and the purposes for, and the manner in which the same shall have been expended :

5. A particular account of the state of the schools under their care, and of the property and affairs of such school or society.<sup>83</sup>

Duties of commissioners.

§ 124. It shall be the duty of the commissioners of school money,

1. To call for such reports, by advertisements in two or more of the public newspapers printed in the city of New-York, for at least two weeks preceding the fifteenth day of May in every year :

2. To apportion and pay, on or before the first day of June in every year, the amount of money deposited to their credit, to the several societies or schools which shall be designated by the ordinance of the corporation as entitled to receive a share thereof, and who shall have complied with the requisitions of this Article :

3. To visit and examine the societies and schools receiving such monies, twice at least in every year, and to examine their registers and other books; and to require such other proof, on oath or other-

(82) Laws of 1824, p. 338, § 4. (83) *Ib.* § 5.

wise, as they may think proper, relating to the subject matter of any report made by the trustees of such societies and schools, as to the number of scholars, and the appropriation of monies received by them, and as to all other matters connected with the interests of said schools in such city :

ART. 7.

4. To make a report to the corporation and to the superintendent of common schools, on or before the first day of December in every year, comprising all the matters contained in the reports of the respective societies and schools, for the year next preceding the first day of May in the same year, and such other matters as they may deem necessary to promote the interests of said schools in the city of New-York :

5. To cause a copy of such report to be filed at the same time, in the clerk's office of the city and county.<sup>64</sup>

§ 125. The apportionment of school monies shall be made to each school according to the average number of children over the age of four and under sixteen years, who shall have actually attended such school during the preceding year ; but no school shall be entitled to a portion of such monies, that has not been kept open at least nine months during the year. Apportionment, how made.

§ 126. Every such society or school in the city of New-York, which shall neglect, when so required by the commissioners, to produce satisfactory proof before the first day of June in any year, relating to the subject matter of any report made by its trustees, shall forfeit its share of school monies for that year ; and such share shall remain in the hands of the commissioners, to be distributed by them as a part of the school monies of the succeeding year.<sup>65</sup> When withheld.

§ 127. Every such society or school considering itself aggrieved by any decision of the commissioners of school money, may appeal therefrom to the superintendent of common schools, whose decision thereon shall be final.<sup>65</sup> Appeal.

§ 128. The four first wards of the city of Troy shall be and remain one school district, and shall not be subject to alteration by the commissioners of common schools for that city.<sup>66</sup> Troy ; school district in.

§ 129. The common council of the city shall annually, on the third Tuesday of May, appoint not exceeding thirteen trustees, to manage the concerns of the school in such district, and to perform the duties of inspectors and trustees thereof, as required by law and the ordinances of the common council.<sup>66</sup> Inspectors and trustees.

§ 130. Every trustee, before he shall enter on the duties of his office, shall take and subscribe an oath or affirmation, in the form pre-

(64) Laws of 1824, p. 338, § 6, 7 & 8. (65) *Ib.* p. 339, § 7. (66) Laws of 1816, p. 147, § 40 to 42.

**TITLE 2.** *scribed in the constitution of the state, before the mayor or recorder, or one of the aldermen or justices of the city, and shall file the same in the office of the clerk of the city.<sup>97</sup>*

Penalty for neglect.

§ 131. Every person appointed a trustee, who shall refuse or neglect to file such oath or affirmation within fifteen days after he shall have received notice of his appointment, shall forfeit the sum of ten dollars, to be recovered in the manner prescribed in the "Act to incorporate the city of Troy," passed April 12th, 1816.<sup>97</sup>

School monies, how paid.

§ 132. The commissioners of common schools for the city shall pay to the chamberlain of said city, such a portion of the school monies to be distributed by them, as the district above designated may be entitled to receive, and the same shall be paid over by the chamberlain to the trustees of such district.<sup>97</sup>

School-house, how repaired, &c.

§ 133. The common council of the city shall have power to raise a sum not exceeding five hundred dollars annually, by tax on the inhabitants of such district, for repairing the school-house therein, and defraying the expenses of the school; which tax shall be assessed and collected as the other taxes of the city are assessed and collected, and when collected, shall be paid to the chamberlain of the city.<sup>97</sup>

Aldermen of 5th and 6th wards not to vote.

§ 134. In the execution of the powers which, by the preceding sections, are vested in the common council of the city, the aldermen of the fifth and sixth wards shall not be considered as members of such council, nor be permitted to vote on any question that may arise therein, touching the concerns of such district or its school.<sup>97</sup>

Tuition to be graduated, &c.

§ 135. The trustees of such school shall have power to exempt from the payment of tuition money and other charges, all such scholars and the persons sending them to school, as they shall judge unable to bear the charge thereof; and to fix the sum which each person liable to pay for the same shall be compelled to pay, having regard to the ability of the persons so liable; and to appoint a collector to collect such sums from the persons liable to pay the same.<sup>97</sup>

Commissioners and inspectors, how chosen.

§ 136. There shall annually be elected, at the time and in the manner the other officers of the city are chosen, one commissioner of common schools in each of the wards of the city of Troy; and in each of the fifth and sixth wards, three inspectors of common schools for such wards shall be chosen, at the same time and in the same manner.<sup>97</sup>

Hudson; school monies, how apportioned.

§ 137. The amount of monies allowed to the city of Hudson by the superintendent of common schools, shall be apportioned by the treasurer of the county of Columbia, between "The Hudson Lancaster School Society," and such common school districts and parts of districts as now are or may hereafter be organized without the bounds of the compact part of the city, in a ratio proportioned to the



number of children over the age of five and under sixteen years, within such compact part, and the number of such children in such districts and parts of districts respectively, without such compact part.<sup>68</sup> ART. 7.

§ 138. The treasurer of the county of Columbia shall pay the amount thus apportioned to the Hudson Lancaster School to its treasurer, and the amount thus apportioned to such school districts and parts of districts to the commissioners of common schools for the city of Hudson.<sup>68</sup> Treasurer to pay monies.

§ 139. The amount thus paid to the Hudson Lancaster School Society, shall be applied by the trustees of that society to the education of such poor children belonging to the city of Hudson as may be, in their opinion, entitled to gratuitous education, and to the support and maintenance of the school or schools established by such trustees.<sup>68</sup> How applied.

§ 140. The treasurer of the county of Columbia shall transmit to the board of supervisors of the county, at their annual meeting, a certified copy of the apportionment made by him.<sup>68</sup> Copy of apportionment.

§ 141. The supervisors shall annually add to the amount to be raised on the said districts and parts of districts respectively, for defraying town expenses, a sum equal to the amount thus apportioned to such districts and parts of districts, with the addition of five cents on the dollar for collector's fees, and shall cause the same to be collected at the same time and in the same manner as other taxes levied on towns are collected.<sup>68</sup> Supervisors to raise equal amount.

§ 142. The collector shall pay over the monies so collected by him, after deducting five cents on the dollar for his fees, to the commissioners of common schools for the city of Hudson.<sup>68</sup> Collector, how to pay.

§ 143. The commissioners of common schools for that city shall distribute and pay, to the trustees of such school districts and parts of districts, the amount so received by them from the collector and the county treasurer, in the same proportion in which such monies were collected from each district and part of a district.<sup>68</sup> Commissioners, how to distribute.

§ 144. To enable the supervisors of the county to make such addition, it shall be the duty of the assessors of the ward within which such school districts and parts of districts shall be situate, to designate on their assessment rolls the inhabitants who reside within each of such districts and parts of districts.<sup>68</sup> Assessors to designate inhabitants.

§ 145. The school monies apportioned by the superintendent of common schools, to the city of Albany, shall be paid by the treasurer of the county of Albany, to the trustees of the Lancaster school in that city, to be applied to the education of such poor children residing

**TITLE 2** in the same, who shall be, in the opinion of such trustees, entitled to a gratuitous education.<sup>89</sup>

*How ac-  
counted for.*

§ 146. The trustees of such society shall annually account to the treasurer of the county of Albany, for the faithful application of such monies, according to the laws relating to common schools.<sup>90</sup>

*Schenectady: school monies, how appropriated.*

§ 147. The amount of the monies allowed to the city of Schenectady by the superintendent of common schools, and which may be raised from taxes in said city, under the laws relative to common schools, shall be apportioned by the treasurer of the county of Schenectady, between the Schenectady Lancaster school society and such common school districts and parts of districts as now are, or hereafter may be organized without the bounds of the compact part of the said city, called the police, and in a ratio proportioned to the number of children over the age of five, and under sixteen years, within such compact part, and the number of such children in such districts and parts of districts respectively, without such compact part.<sup>90</sup>

*Treasurer's duty.*

§ 148. The treasurer of the county of Schenectady shall pay the amount thus apportioned to the Schenectady Lancaster school society, to its treasurer, and the amount thus apportioned to such school districts and parts of districts, to the commissioners of common schools for the city of Schenectady.<sup>90</sup>

*Distribution.*

§ 149. The commissioners of common schools for said city, shall distribute and pay to the trustees of such school districts and parts of districts, the amount so received by them from the county treasurer, in proportion to the number of children residing in each, over the age of five and under that of sixteen years, as the same shall have appeared from the last annual report of their respective trustees.<sup>90</sup>

*Annual re-  
port.*

§ 150. The trustees of the Schenectady Lancaster school society, and all teachers of common schools within the compact part of said city, shall make an annual report to the clerk of the county of Schenectady, within the same period that other district school reports are to be made, of the number of children within the compact part of said city over the age of five and under the age of sixteen years.<sup>90</sup>

*Territory to be divided by commissioners.*

§ 151. The commissioners of schools of the city, shall divide that portion of the territory of the first and second wards of the city, not comprised within the bounds of the police, into such number of school districts, as they may deem convenient, and may alter and regulate such districts, according to the provisions of this Title; and the provisions of this Title shall apply to all districts so established.<sup>91</sup>

*Annual re-  
ports of Lan-  
caster schools.*

§ 152. It shall be the duty of the trustees of the Lancaster school in the city of Albany, of the corporation of the city of Hudson,

(89) Laws of 1819, p. 207, § 36. (90) Act of the 21st of April, 1828, p. 487, § 5, 6, 7 & 8.  
(91) Laws of 1837, p. 186, § 1.

and of the trustees of the Schenectady Lancaster school society, to make an annual report to the superintendent of common schools, in such form as shall be prescribed by him, of the state and condition of the schools for whose benefit the school monies shall have been applied in the cities of Albany, Hudson and Schenectady.<sup>92</sup>

ART. 7.

§ 153. The village of Poughkeepsie, and that part of the village of Catskill which lies east of the creek of that name, shall each form a permanent school district, not subject to alteration by the commissioners of common schools for the towns in which such villages are or shall be situate.<sup>93</sup>

Poughkeepsie and Catskill school districts.

§ 154. The school monies which each of the above permanent districts shall, from time to time, be entitled to receive from the commissioners of common schools, in their respective towns, shall be paid, in Poughkeepsie, to the trustees of "The Poughkeepsie Lancaster school society," and in Catskill, to "the trustees of the Catskill Lancaster school society."<sup>93</sup>

Monies how paid.

§ 155. The trustees of the above societies shall be so far respectively considered the trustees of the permanent districts to which they belong, as that they shall be bound to report to the commissioners of common schools, in their respective towns, the number of children over the age of five and under sixteen in their respective districts.<sup>93</sup>

Trustees, how to report.

§ 156. The treasurer of the county of Oneida shall pay to the treasurer of the village of Utica, the proportion of school monies apportioned by the superintendent of common schools to the town of Utica, to be expended by the trustees of the village, for the support of a free school in the same, for the education of such poor children therein, as shall, in the opinion of the board of trustees, be entitled to gratuitous education.<sup>94</sup>

Utica; school monies how paid.

§ 157. The village of Utica shall form one school district; and the trustees of the village shall make an annual report to the clerk of the county of Oneida, within the same period that other district reports are to be made, of the number of children in said village over the age of five and under sixteen years, and of the state and condition of their schools; and shall account to the treasurer of the county of Oneida, for the monies paid to them.<sup>94</sup>

Trustees of village to report and account.

§ 158. The trustees of the village of Utica, shall have power annually to cause to be raised and levied on the inhabitants thereof, such sum of money not exceeding one hundred dollars, as shall, in the opinion of the trustees, be sufficient to keep the school-house erected for said free school in repair, and to purchase fuel and other appendages therefor; which sum shall be collected, in addition to the sums

To raise for repairs and fuel.

(92) Laws of 1816, p. 267, § 16; 1822, p. 267, § 3. (93) Laws of 1814, p. 47, § 6; 1817, p. 79. (94) Laws of 1817, p. 226, § 27 & 29.

**TITLE 2.** authorised to be raised in said village, by adding to the tax assessed on each inhabitant his due proportion, according to the last previous assessment of the real and personal property of the inhabitants; which additional sum shall be collected by the collector of said village, as other village taxes are collected.<sup>95</sup>

Flatbush;  
monies paid  
to academy.

§ 159. The school monies appropriated to that part of the town of Flatbush, commonly called "the Old Town," excepting such portion thereof as may be applicable to the instruction of children living on the borders of the old town, and sent to school in the adjoining towns, shall be annually paid, by the several officers whose duty it shall be to pay the same, to the trustees of the Academy of Erasmus Hall.<sup>96</sup>

How applied.

§ 160. The trustees receiving such monies shall give their receipt therefor, and shall apply the monies received to the education of such poor children living in "the old town" and sent to the academy, as in their opinion, shall be entitled to a gratuitous education.<sup>96</sup>

How ac-  
counted for.

§ 161. The trustees of the academy shall account to the commissioners of common schools of the town of Flatbush, for the faithful application of the school monies received by them, and shall make an annual report to the same commissioners on the first day of May in each year, of the progress and number of the children of "the old town" so taught in the academy.<sup>96</sup>

Montgomery  
academy.

§ 162. The trustees of Montgomery Academy in the town of Montgomery, and their successors in office, shall be the trustees of school district number seven in said town, which district shall be hereafter permanent and unalterable.<sup>97</sup>

Flushing;  
free school  
association.

§ 163. The commissioners of common schools of the town of Flushing shall pay to the managers of the Free School Association, in school district number five, the school monies apportioned to said district, so long as no common school is taught in said district according to the general provisions of law.<sup>98</sup>

To make an-  
nual report,  
&c.

§ 164. The managers of the free school association in such school district shall make an annual report to such commissioners, within the same period that other district school reports are to be made, of the number of children in the district over the age of five and under sixteen years, and of the state and condition of their school; and shall account to such commissioners for the monies paid to them.<sup>98</sup>

Application  
of this Title.

§ 165. In all cases where no special provision is made, the general provisions, regulations and penalties of this Title, shall be construed to apply to the several cities, villages and towns, to which this Article relates, and to their several commissioners and inspectors of common schools, and trustees and collectors of school districts.<sup>98</sup>

(95) Laws of 1817, p. 225, § 27 & 29. (96) Laws of 1814, p. 91. (97) Laws of 1814, p. 93. (98) Laws of 1818, p. 121.

TITLE III.

TITLE 3.

OF THE DUTIES OF THE SUPERINTENDENT OF COMMON SCHOOLS,  
IN RELATION TO THE INSTRUCTION OF THE DEAF AND DUMB.

- Sec. 1. Institution in New-York, and other such institutions, subject to his visitation.  
2. Duties of the superintendent in relation to such institutions.

§ 1. The institution of the deaf and dumb in the city of New-York, and every other similar institution incorporated, or to be incorporated in this state, shall be subject to the visitation of the superintendent of common schools.<sup>99</sup> Subject to visitation.

§ 2. It shall be the duty of the superintendent, as such visiter, Duties of superintendent.

1. To inquire from time to time into the expenditures of each institution, and the systems of instruction pursued therein respectively :
2. To visit and inspect the schools belonging thereto, and the lodgings and accommodations of the pupils :
3. To ascertain, by a comparison with other similar institutions, whether any improvements in instruction and discipline can be made ; and for that purpose to appoint from time to time suitable persons to visit the schools :
4. To suggest to the directors of such institution, and to the legislature, such improvements as he shall judge expedient :
5. To make an annual report to the legislature on all the matters before enumerated, and particularly as to the condition of the schools, the improvement of the pupils, and their treatment in respect to board and lodging.<sup>99</sup>

TITLE IV.

OF THE GOSPEL AND SCHOOL LOTS.

- Sec. 1. Trustees of gospel or school lots, a corporation for certain purposes.  
2. Such trustees to give bond.  
3. Their powers and duties.  
4. Auditors of town to report upon accounts of trustees of gospel and school lots.  
5 & 6. Lands and money arising therefrom, how disposed of upon division of town.  
7. When the share of any town is to be paid to supervisor, &c.

§ 1. The trustees elected in any town in this state, having lands assigned to it, for the support of the gospel or of schools, or of both, shall be a corporation for the purposes of their office, by the name of "The trustees of the gospel and school lot" in that town for which they are elected. Trustees a corporation.

§ 2. Before they enter on the duties of their office, they shall execute a bond to the supervisor of the town, in such penalty and with such sureties as such supervisor shall approve, for the faithful performance of such duties. To give bonds.

(99) Laws of 1827, p. 78.

TITLE 4.  
 Their powers  
 and duties.

§ 3. The trustees, besides the ordinary powers of a corporation, shall have power, and it shall be their duty,

1. To take and hold possession of the gospel and school lot of their town :

2. To lease the same for such time not exceeding twenty-one years, and upon such conditions as they shall deem expedient :

3. To sell the same with the advice and consent of the inhabitants of the town, in town-meeting assembled, for such price and upon such terms of credit as shall appear to them most advantageous :

4. To invest the proceeds of such sales in loans, secured by bond and mortgage upon unincumbered real property of the value of double the amount loaned :

5. To purchase the property so mortgaged upon a foreclosure, and to hold and convey the property so purchased whenever it shall become necessary :

6. To re-loan the amount of such loans repaid to them, upon the like security :

7. To apply the rents and profits of such lots, and the interest of the money arising from the sale thereof, to the support of the gospel and schools, or either, as may be provided by law, in such manner as shall be thus provided :

8. To render a just and true account of the proceeds of the sales and the interest on the loans thereof, and of the rents and profits of such gospel and school lots, and of the expenditure and appropriation thereof, on the last Tuesday next preceding the annual town-meeting in each year, to the board of auditors of the accounts of other town officers :

9. To deliver over to their successors in office, all books, papers and securities relating to the same, at the expiration of their respective offices : and,

10. To take therefor a receipt, which shall be filed in the clerk's office of the town.

Accounts.

§ 4. The board of auditors in each town, shall annually report the state of the accounts of the trustees of the gospel and school lots in that town, to the inhabitants thereof, at their annual town-meeting.

Lands of  
 town divided.

§ 5. Whenever a town having lands assigned to it for the support of the gospel or of schools, shall be divided into two or more towns, or shall be altered in its limits by the annexing of a part of its territory to another town or towns, such lands shall be sold by the trustees of the town, in which such lands were included immediately before such division or alteration ; and the proceeds thereof, shall be apportioned between the towns interested therein, in the same manner as the other public monies of towns, so divided or altered, are apportioned.

§ 6. The shares of such monies, to which the towns shall be respectively entitled, shall be paid to the trustees of the gospel and school lots of the respective towns, and shall thereafter be subject to the provisions of this Title. TITLE 5.  
Shares to whom paid.

§ 7. If in either of such towns, trustees of gospel and school lots shall not have been chosen, or there be none in office, the share of such town shall be paid to the supervisor ; and the town, at its next annual town-meeting, and annually thereafter, shall choose such trustees in the same manner as if gospel and school lots had originally been assigned to it ; which trustees shall have charge of the monies so paid to the supervisor, and shall be subject to all the duties and liabilities, and possess all the powers imposed or conferred in this Title.<sup>100</sup>

## TITLE V.

### OF THE LEWISTON SCHOOL FUND.

- Sac. 1. Designation of the fund ; interest to be appropriated to schools in Lewiston.  
 2 & 3. Commissioners of the fund, term of office, &c.  
 4. To give bonds ; conditions thereof.  
 5. Their powers and duties.  
 6. Trustees of common schools in Lewiston, to give bond, &c.  
 7. Who to sue for breach of bonds given by commissioners or by trustees.

§ 1. The property now belonging to the Lewiston school fund, shall remain a continual fund, the interest of which shall be inviolably appropriated to the support of common schools, in the village of Lewiston, under the direction of the commissioners of the Lewiston school fund for the time being. Perpetual fund.

§ 2. The commissioners of the Lewiston school fund, shall not exceed three in number, and shall hold their offices for two years, and until others shall be appointed. In case of vacancies in office of such commissioners, the vacancies shall be filled, and all appointments hereafter be made, by the governor and senate, in the same manner that other appointments are made. Commissioners.

§ 3. All such commissioners hereafter to be appointed, shall continue in office for two years, and until others shall be appointed ; unless in cases of appointments to fill vacancies, where the term shall expire with that of the other commissioners. Tenure of offices.

§ 4. Every person hereafter appointed a commissioner of the Lewiston school fund, shall, before he enters on the duties of his office, give to the trustees of the corporation of the village of Lewiston, a bond, in the penalty of fifteen thousand dollars, with two or more sureties, conditioned that he shall faithfully execute the duties of his To give bond

(100) This Title was compiled from the following sources : 1 R. L. 219, 221 & 222 ; Session Laws of 1813, Chap. 100 ; Laws of 1821, p. 230, § 4 ; and Laws of 1826, p. 28.

**TITLE 5.** office, which bond shall be deposited with the clerk of the said corporation.

Their powers and duties.

§ 5. The commissioners of the Lewiston school fund shall have power, and it shall be their duty,

1. To sell or lease the lots of land in the village of Lewiston, belonging to the said fund, on such terms as they may judge most conducive to the interest of the fund :

2. To certify to the commissioners of the land-office, on receiving payment for such sales, a description of the land sold, the price, the time when sold, the names of the purchasers, and that the consideration money and interest has been fully paid :

3. To loan all monies which may come to their hands belonging to the fund :

4. To take a bond on making such loans, to themselves as such commissioners, secured by a mortgage on unincumbered real property, of at least double the value of the sum loaned, exclusive of buildings :

5. To collect all bonds and mortgages, or other debts, due to the fund :

6. To pay over to the trustees of common schools in the said village, all monies received by the commissioners for interest on loans, or rents of land belonging to said fund :

7. To keep suitable books and accounts of all matters relating to the management of said fund, which shall be open to the inspection of the inhabitants of the village, at all reasonable times : and,

8. To deliver, at the expiration of their several offices, to the remaining commissioners, or their successors in office, all the books and papers relating to said fund.



Trustees to give bond.

§ 6. Before the trustees of common schools, in said village, shall be entitled to receive such monies from the commissioners, the trustees shall execute a bond to the supervisor of the town of Lewiston, in such penalty and with such sureties as the supervisor shall approve, conditioned that the trustees shall faithfully apply such monies towards the support of schools in the village of Lewiston, for the benefit of such of its inhabitants as shall have resided in the village at least six months ; and shall render a just and true account of the expenditure of such monies, to the supervisor, when required.

Bonds to be sued.

§ 7. It shall be the duty of the trustees of the corporation of the village of Lewiston, in case of any breach of the condition of the bond given by such commissioners, and of the supervisor of the town of Lewiston, in case of any breach of the condition of the bond given by the trustees of common schools for the village of Lewiston, to sue for and recover on said bonds, all damages which may have accrued by such breaches, for the use of said schools.<sup>101</sup>

(101) This Title is a revision of the act of 1826. Laws of 1826, p. 289.



CHAP. XVI.

ART. I.  


Of Highways, Bridges, and Ferries.

TITLE I.—Of highways and bridges.

TITLE 2.—Of the regulation of ferries.

TITLE I.

OF HIGHWAYS AND BRIDGES.

- ART. 1.—Of the officers entrusted with the care and superintendence of highways and bridges ; and their general powers and duties.
- ART. 2.—Of the persons liable to work on highways, and the making of assessments therefor.
- ART. 3.—Of the duties of overseers in regard to the performance of labor upon highways, and of the performance of such labor, or the commutation therefor.
- ART. 4.—Of the laying out of public and private roads, and of the alteration or discontinuance thereof.
- ART. 5.—Regulations and penalties concerning the obstruction of highways, and encroachments thereon.
- ART. 6.—Of the erection, repairing, and preservation of bridges.
- ART. 7.—Miscellaneous provisions of a general nature.

ARTICLE FIRST.

*Of the Officers entrusted with the Care and Superintendence of Highways and Bridges ; and their general Powers and Duties.*

- SEC. 1. Commissioners of highways to have care of highways and bridges ; their duties.
- 2. They have power to lay out and discontinue roads.
- 3. To account to board of auditors of town accounts.
- 4. To deliver statement of improvements necessary on roads and bridges.
- 5. They shall cause mile-stones to be erected.
- 6 & 7. Duties of overseers of highways.
- 8. When to make new assessment.
- 9. Commissioners of highways to cause guide-posts to be erected.
- 10. Overseers of highways to keep them in repair.
- 11. Commissioners may procure, with fines and commutation monies, a scraper, &c.
- 12. If such monies are insufficient, deficiency assessed upon inhabitants of district.
- 13. Compensation of overseers of highways for excess of work.
- 14. If office of overseer become vacant, commissioners to fill it.
- 15. Commissioners making appointment, to cause warrant to be filed.
- 16. Penalties on overseers of highways, for neglect of certain duties.
- 17. Commissioners may prosecute overseers for neglect of duty.
- 18. Commissioners to forfeit \$10 for refusing to prosecute.

SECTION 1. The commissioners of highways in the several towns Commissioners, their du-  
in this state, shall have the care and superintendence of the highways ty.  
and bridges therein ; and it shall be their duty,

- 1. To give directions for the repairing of the roads and bridges, within their respective towns :
- 2. To regulate the roads already laid out, and to alter such of them as they, or a majority of them, shall deem inconvenient :
- 3. To cause such of the roads used as highways, as shall have been laid out but not sufficiently described, and such as shall have been

**TITLE 1.** used for twenty years but not recorded, to be ascertained, described, and entered of record in the town clerk's office :

4. To cause the highways, and the bridges which are or may be erected over streams intersecting highways, to be kept in repair :

5. To divide their respective towns into so many road districts as they shall judge convenient, by writing under their hands, to be lodged with the town clerk, and by him to be entered in the town book ; such division to be made annually, if they shall think it necessary, and in all cases to be made at least ten days before the annual town-meeting :

6. To assign to each of the said road districts, such of the inhabitants liable to work on highways, as they shall think proper, having regard to proximity of residence as much as may be : and,

7. To require the overseers of highways, from time to time, and as often as they shall deem necessary, to warn all persons assessed to work on highways, to come and work thereon, with such implements, carriages, cattle or sleds, as the said commissioners, or any one of them, shall direct.<sup>1</sup>

To lay out  
and disconti-  
nue roads.

§ 2. The commissioners of highways shall have power, in the manner and under the restrictions herein after provided, to lay out on actual survey, such new roads in their respective towns as they may deem necessary and proper ; and to discontinue such old roads and highways, as shall appear to them, on the oaths of twelve freeholders of the same town, to have become unnecessary.<sup>1</sup>

To account.

§ 3. The commissioners of highways of each town, shall render to the board of town auditors at their annual meeting for auditing the accounts of town officers, an account in writing, stating,

1. The labor assessed and performed in such town :

2. The sums received by such commissioners for fines and commutations, and all other monies received under this Chapter :

3. The improvements which have been made on the roads and bridges in their town, during the year immediately preceding such report, and an account of the state of such roads and bridges : and,

4. A statement of the improvements necessary to be made on such roads and bridges, and an estimate of the probable expense of making such improvements, beyond what the labor to be assessed in that year, will accomplish.<sup>2</sup>

Repairs of  
roads and  
bridges.

§ 4. The commissioners of highways of each town, shall deliver to the supervisor of such town, a statement of the improvements necessary to be made on the roads and bridges, together with the probable expense thereof ; which supervisor shall lay the same before the board of supervisors at their next meeting. The board of supervisors shall cause the amount so estimated, to be assessed, levied and

collected, in such town, in the same manner as other town charges; but the monies to be raised in any such town, shall not exceed in any one year, the sum of two hundred and fifty dollars.<sup>3</sup> ART. 1.

§ 5. It shall be the duty of the commissioners of highways of each town, to cause mile-boards or stones, to be erected, where not already erected, on the post-roads, and such other public roads in their town, as they may think proper, at the distance of one mile from each other, with such fair and legible inscriptions as they may think proper.<sup>4</sup> Mile-stones.

§ 6. It shall be the duty of the overseers of highways in each town, Overseers, their duty.

1. To repair and keep in order the highways within the several districts for which they shall have been elected :

2. When so required by the commissioners of highways, or any one of them, to warn all persons assessed to work on the highways in their respective districts, to come and work thereon :

3. To cause the noxious weeds on each side of the highway within their respective districts, to be cut down or destroyed twice in each year, once before the first day of July, and again before the first day of September ; and the requisite labor shall be considered highway work : and,

4. To collect all fines and commutation money, and to execute all lawful orders of the commissioners.<sup>5</sup>

§ 7. It shall be the further duty of the overseers of highways, once in every month, from the first day of April until the first day of December, to cause all the loose stones lying on the beaten track of every road within their respective districts, to be removed ; and to cause the monuments erected or to be erected as the boundaries of highways, to be kept up and renewed, so that the extent of such roads may be publicly known.<sup>6</sup>

§ 8. When the quantity of labor assessed on the inhabitants of any road district by the commissioners, shall be deemed insufficient by the overseer of such district to keep the roads therein in repair, it shall be the further duty of such overseer, to make another assessment on the actual residents in such district, in the same proportion, as near as may be, and not exceeding one third of the number of days assessed in the same year by the commissioners on the inhabitants of such district ; and the labor so assessed by an overseer, shall be performed or commuted for, in like manner as if the same had been assessed by the commissioners of highways.<sup>7</sup> New assessment to be made by them.

§ 9. The commissioners of highways of each town, shall cause guide-posts, with proper inscriptions and devices, to be erected at the intersections of all the post-roads in their town, and at the intersection of such other roads therein as they may deem necessary.<sup>8</sup> Guide-posts.

(3) 2 R. L. 270, § 21. (4) Ib. § 22. (5) Ib. § 3. (6) Ib. § 15. (7) Ib. § 6. (8) Ib. § 24.

## TITLE 1.

ib.

§ 10. It shall be the duty of the overseers of highways of each town, to maintain and keep in repair, at the expense of the town, such guide-posts as may have been erected by order of the commissioners, within the limits of the districts for which they shall have been respectively elected or appointed.<sup>9</sup>

Scrapers and ploughs.

§ 11. The commissioners of highways, whenever they shall think it necessary or useful, may direct and empower any overseer of highways in their respective towns, to procure a good and sufficient iron or steel-shod scraper, and plough, or either of them, for the use of his road district; to be paid for, by the monies arising from commutations and fines within such district.<sup>10</sup>

ib.

§ 12. In case such monies shall be insufficient for the purpose, the deficiency shall be assessed by the overseers upon the inhabitants of the districts, in the proportion they are respectively assessed on the assessment roll of said town; and if any one so assessed, shall neglect or refuse to pay such assessment, the same may be sued for and recovered by the overseer.<sup>10</sup>

Excess of work by overseers.

§ 13. If any overseer shall be employed more days in executing the several duties enjoined on him by this Chapter, than he is assessed to work on the highway, he shall be paid for the excess at the rate of seventy-five cents per day, and be allowed to retain the same out of the monies which may come into his hands for fines under this Chapter; but he shall not be permitted to commute for the days he is assessed.<sup>11</sup>

Vacancy in their office.

§ 14. If any person chosen to the office of overseer of highways, shall refuse to serve, or if his office shall become vacant, the commissioners of highways of the town, shall, by warrant under their hands, appoint some other person in his stead; and the overseer so appointed, shall have the same powers, be subject to the same orders, and liable to the same penalties, as overseers chosen in town-meeting.<sup>12</sup>

Proceedings.

§ 15. The commissioners making the appointment, shall cause such warrant to be forthwith filed in the office of the town clerk, who shall give notice to the person appointed as in other cases.

Penalties on overseers.

§ 16. Every overseer of highways who shall refuse or neglect either,

1. To warn the people assessed to work on the highways, whom he shall have been required so to do, by the commissioners, or either of them:

2. To collect the monies that may arise from fines or commutations: or,

3. To perform any of the duties required by this Chapter, or which may be enjoined on him by the commissioners of highways of his

town, and for the omission of which, a penalty is not hereinafter provided: ART. 2.

Shall, for every such refusal or neglect, forfeit the sum of ten dollars, to be sued for by the commissioners of highways of the town; and when recovered, to be applied by them in making and improving the roads and bridges therein.<sup>12</sup>

§ 17. It shall be the duty of the commissioners of highways of each town, whenever any person resident in their town shall make complaint that any overseer of highways in such town, has refused or neglected to perform any of the duties enumerated in the last preceding section, and shall give or offer to such commissioners, sufficient security to indemnify them against the costs which may be incurred in prosecuting for the penalty annexed to such refusal or neglect, forthwith to prosecute such overseer for the offence complained of.<sup>13</sup> To be prosecuted by commissioners.

§ 18. If such commissioners of highways shall refuse or neglect to prosecute for such penalty, they shall, in every such case, forfeit the sum of ten dollars, to be recovered by the person who shall have made such complaint, and given or offered such security.<sup>13</sup> Penalty for neglect.

ARTICLE SECOND.

*Of the Persons liable to work on Highways, and the making of Assessments therefor.*

- § 19. Who, and what property liable to be assessed for highway labor.
- 20. When commissioners of highways to meet.
- 21. Overseers to deliver list of persons liable to work on highway, to town clerk.
- 22. Non-resident lands how to be ascertained and appraised.
- 23. Town clerk to deliver lists received by him, to commissioners of highways.
- 24. Mode of proceeding to assess highway labor.
- 25. Copy of each list subscribed by commissioners, to be delivered to overseers.
- 26. Names of persons omitted, to be added to lists.
- 27. Appeals by non-resident owners, to county judges.
- 28. Proceedings of judges thereon.
- 29. Commissioners to credit persons working private roads, with such labor.
- 30. When amount assessed upon land, to be distinguished from tax of occupant.
- 31. Certain tenants when assessed, entitled to a deduction from rent.

§ 19. Every person owning or occupying land in the town in which he or she resides, and every male inhabitant above the age of twenty-one years residing in the town, when the assessment is made, shall be assessed to work on the public highways in such town; and the lands of non-residents, situated in such town, shall be assessed for highway labor, as herein after directed.<sup>14</sup> Persons liable to be assessed.

§ 20. The commissioners of highways of each town, shall meet within eighteen days after they shall be chosen, at the place of town-meeting, on such day as they shall agree upon, and afterwards at such other times and places as they shall think proper.<sup>14</sup> Meetings of commissioners.

(12) 2 R. L. 274, § 14. (13) Laws of 1826, p. 229, § 6. (14) 2 R. L. 271, § 4; Laws of 1826, p. 228, § 1.

## REVISED STATUTES OF

E 1.  
of inhabitants.

no resident  
lands, how  
appraised.

§ 21. Each of the overseers of highways shall deliver to the clerk of the town, within sixteen days after his election or appointment, a list subscribed by such overseer, of the names of all the inhabitants in his road district, who are liable to work on the highways.<sup>15</sup>

§ 22. The commissioners of highways in each town, at their first or any subsequent meeting, shall make out a list and statement of the contents of all lots, pieces or parcels of land within such town, owned by non-residents therein, through which any road in such town, shall run, or which shall bound upon, or join any road; but no such lot, piece or parcel of land, shall be estimated to contain more than three hundred and sixty acres, considering the same as a square. Every lot so designated, shall be described in the same manner as is required from assessors, and its value shall be set down opposite to such description; such value shall be the same as was affixed to such lot in the last assessment roll of the town; and if such lot was not separately valued in such roll, then in proportion to the valuation which shall have been affixed to the whole tract of which such lot shall be a part.

Lands of inhabitants.

§ 23. The town clerk shall deliver the lists filed by the overseers, to the commissioners of highways of the town; who shall proceed, at their next meeting, or at some subsequent meeting, to ascertain, estimate and assess the highway labor to be performed in their town, the then ensuing year.<sup>15</sup>

Proceedings in making assessments.

§ 24. In making such estimate and assessment, the commissioners shall proceed as follows:

1. The whole number of days'-work to be assessed in each year, shall be ascertained, and shall be at least three times the number of taxable inhabitants in such town:

2. Every male inhabitant being above the age of twenty-one year (excepting ministers of the gospel, and priests of every denomination, paupers, idiots, and lunatics,) shall be assessed at least one day's work.

3. The residue of such days'-work, shall be apportioned upon estate real and personal of every inhabitant of such town, as the same shall appear by the last assessment roll of the town, and upon tract or parcel of land, of which the owners are non-residents retained in the lists made as aforesaid:

4. Upon such non resident tracts, there shall be assessed not more than one quarter of a day's labor, upon every hundred dollars valuation:

5. But no such non-resident tracts shall be assessed, unless the same will, in the judgment of the commissioners, be enhanced in value by the highway labor so assessed; and non-resident

in no case be assessed higher than residents are taxed for lands of equal value : ART. 2.

6. If after such apportionment, there shall be any deficiency in the number of days'-work determined by the commissioners, to be performed in their town, the then ensuing year, such deficiency shall be assessed upon the estates real and personal of the inhabitants of the town, according to the last assessment roll :

7. The commissioners shall affix to the name of each person named in the lists furnished by the overseers, and also to the description of each tract or parcel of land contained in the lists prepared by them, of non-resident lands, the number of days which such person or tract shall be assessed for highway labor, as herein directed, and the commissioners shall subscribe such lists, and file them with the town clerk.

§ 25. The commissioners shall direct the clerk of the town to make a copy of each list, and shall subscribe such copies ; after which, they shall cause the several copies to be delivered to the respective overseers of highways of the several districts in which the highway labor is assessed.<sup>16</sup> Copies of lists.

§ 26. The names of persons left out of any such list, and of new inhabitants, shall from time to time be added to the several lists, and they shall be rated, by the overseers in proportion to their real and personal estate, to work on the highways, as others rated by the commissioners on such lists, subject to an appeal to the commissioners.<sup>16</sup> Names omitted, &c.

§ 27. Whenever any non-resident owner shall conceive himself aggrieved by the assessments of any commissioners of highways, in carrying into effect the provisions of this Article, it shall be lawful for such owner, or his agent, within thirty days after such assessment, to appeal to any three judges of the court of common pleas of the county in which such land is situated. Appeals by non-residents

§ 28. It shall be the duty of such judges within twenty days thereafter, to convene and decide on such appeal, the said owner or agent giving notice to the commissioners of the time of the meeting of the judges ; and their decision, or that of any two of them, shall be final and conclusive in the premises. Each judge shall be entitled to receive for his services on such appeal, two dollars for each day he may be employed thereon, to be paid by the party appealing, if the proceedings of the commissioners and overseers shall be affirmed ; but if reversed or modified favorable to the party appealing, to be levied and paid as part of the contingent expenses of such town. Proceedings.

§ 29. It shall be the duty of the commissioners of highways of each town, to credit such persons as live on private roads, and work Private roads

(16) 2 R. L. 271, § 4 ; Laws of 1826, p. 226, § 1.

## TITLE 1.

Lists of inhabitants.

§ 21. Each of the overseers of highways shall deliver to the clerk of the town, within sixteen days after his election or appointment, a list subscribed by such overseer, of the names of all the inhabitants in his road district, who are liable to work on the highways.<sup>15</sup>

Non resident lands, how appraised.

§ 22. The commissioners of highways in each town, at their first or any subsequent meeting, shall make out a list and statement of the contents of all lots, pieces or parcels of land within such town, owned by non-residents therein, through which any road in such town shall run, or which shall bound upon, or join any road; but no such lot, piece or parcel of land, shall be estimated to contain more than three hundred and sixty acres, considering the same as a square. Every lot so designated, shall be described in the same manner as is required from assessors, and its value shall be set down opposite to such description; such value shall be the same as was affixed to such lot in the last assessment roll of the town; and if such lot was not separately valued in such roll, then in proportion to the valuation which shall have been affixed to the whole tract of which such lot shall be a part.

Lists of inhabitants.

§ 23. The town clerk shall deliver the lists filed by the overseers, to the commissioners of highways of the town; who shall proceed, at their next meeting, or at some subsequent meeting, to ascertain, estimate and assess the highway labor to be performed in their town, the then ensuing year.<sup>15</sup>

Proceedings in making assessments.

§ 24. In making such estimate and assessment, the commissioners shall proceed as follows:

1. The whole number of days'-work to be assessed in each year, shall be ascertained, and shall be at least three times the number of taxable inhabitants in such town:
2. Every male inhabitant being above the age of twenty-one years, (excepting ministers of the gospel, and priests of every denomination, paupers, idiots, and lunatics,) shall be assessed at least one day:
3. The residue of such days'-work, shall be apportioned upon the estate real and personal of every inhabitant of such town, as the same shall appear by the last assessment roll of the town, and upon each tract or parcel of land, of which the owners are non-residents, contained in the lists made as aforesaid:
4. Upon such non resident tracts, there shall be assessed not more than one quarter of a day's labor, upon every hundred dollars of such valuation:
5. But no such non-resident tracts shall be assessed, unless the same will, in the judgment of the commissioners, be enhanced in value by the highway labor so assessed; and non-resident tracts shall



§ 44. The constable to whom such warrant shall be directed, shall forthwith collect the monies therein mentioned. He shall pay the fine when collected, to the justice who issued the warrant, who is hereby required to pay the same to the overseer who entered the complaint, to be by him expended in improving the roads and bridges in the district of which he is overseer.<sup>27</sup> ART. 3.  
ib.

§ 45. Every penalty collected for a refusal or neglect to appear and work on the highways, shall be set off against the assessment upon which it was founded, estimating every dollar collected as a satisfaction for one day's work. Penalties to  
be set off.

§ 46. The acceptance by an overseer of any excuse for refusal or neglect, shall not in any case, exempt the person excused from commuting for, or working, the whole number of days for which he shall have been assessed during the year.<sup>27</sup> Excuses.

§ 47. Every overseer of highways, shall, on or before the first day of October, in each year, make out and deliver to the supervisor of his town, a list of all the lands of non-residents, and of persons unknown, which were taxed on his lists, on which the labor assessed by the commissioners of highways has not been paid, and the amount of labor unpaid; and the said overseer, previous to delivering such list, shall make and subscribe an affidavit thereon, before some justice of the peace of such town, that he has given the notice required by the thirty-third and thirty-fourth sections of this Title, and that the labor for which such land is returned, has not been performed. Proceedings  
to collect  
non-resident  
labor unpaid.

§ 48. If any overseer shall refuse or neglect to deliver such list to the supervisor, as provided in the last preceding section, or shall refuse or neglect to make the affidavit as therein directed, he shall, for every such offence, forfeit the sum of five dollars, and also the amount of tax or taxes for labor remaining unpaid, at the rate of sixty-two and a half cents for each day; to be recovered by the commissioners of highways of the town, and to be applied by them in making and improving the roads and bridges in such town. Proceedings,  
&c.

§ 49. It shall be the duty of the supervisors of the several towns, to receive the lists of the overseers of highways, when delivered pursuant to the preceding forty-seventh section, and to lay the same before the board of supervisors of the county.

§ 50. It shall be the duty of such board at their next meeting, to cause the amount of such arrearages of labor, (estimating a day's labor at sixty-two and a half cents,) to be levied on the lands so returned; and to be collected in the same manner that the contingent charges of the county are levied and collected, and to order the same, when collected, to be paid over to the commissioners of highways of

TITLE 1. the same, so much on account of their assessments, as such commissioners may deem necessary to work such private road; or to annex such private roads to some of the highway districts.<sup>17</sup>

Certain assessments to be separate.

§ 30. Whenever the commissioners of highways shall assess the occupant, for any land not owned by such occupant, they shall distinguish in their assessment lists, the amount charged upon such land, from the personal tax, if any, of the occupant thereof. But when any such land shall be assessed in the name of the occupant, the owner thereof shall not be assessed during the same year to work on the highways on account of the same land.<sup>18</sup>

Tenant to deduct assessment.

§ 31. Whenever any tenant of any land for a less term than twenty-five years, shall be assessed to work on the highways, for such land, pursuant to the last preceding section, and shall actually perform such work, or commute therefor, he shall be entitled to a deduction from the rent due, or to become due from him, for such land, equal to the full amount of such assessment, estimating the same at the rate of sixty-two and a half cents per day; unless otherwise provided for by covenant or agreement, between such tenant and his landlord.<sup>19</sup>

#### ARTICLE THIRD.

#### *Of the Duties of Overseers in regard to the Performance of Labor upon Highways; and of the Performance of such Labor or the Commutation therefor.*

- Sec. 32. Overseers to give 24 hours' notice to persons assessed to work on highway.  
 33. Notice when to be given to agents of non-residents.  
 34. How given where no agent in the town.  
 35. Persons to work their whole number of days unless they commute.  
 36. Persons commuting, to pay in 24 hours after notice to appear and work.  
 37. Overseers may require a team, &c. from persons assessed for three days.  
 38. Persons may appear by substitute; hours to work.  
 39. Persons not working faithfully, to forfeit one dollar.  
 40. Penalty for not commuting or not appearing, &c.  
 41. Overseers to make complaint of delinquents to a justice.  
 42. Justice to summon delinquent to shew cause why he should not be fined.  
 43. If no sufficient cause be shown, delinquent to be fined; warrant to be issued.  
 44. Money collected, to go to overseer who entered complaint; how applied.  
 45. Penalties collected, to be set off against assessment.  
 46. Acceptance of excuse by overseer, not to exempt from commuting or working.  
 47. Overseers annually to return non-resident labor unpaid to supervisor.  
 48. Penalty for neglect.  
 49. Lists of non-resident labor unpaid, to be laid before board of supervisors.  
 50. Board to cause amount to be levied and collected.  
 51. Overseers to account to commissioners of highways annually.  
 52. To pay over at that time all monies remaining in their hands.  
 53. If overseer refuse, &c. to render account, to forfeit five dollars.

Notice to work. Where to be done.

§ 32. It shall be the duty of the overseers of highways, to give at least twenty-four hours notice to all persons assessed to work on the highways, and residing within the limits of their respective districts, of the time and place, when and where they are to appear for that purpose, and with what implements; but no person being a re-

- Sec. 62. Before commissioners determine to lay out road, to give notice to occupant.  
 63. They shall meet, and if road laid out, description of it to be made and filed.  
 64. When damages may be fixed by agreement. Road not to be opened until damages are assessed.  
 65, 66, 67, 68 & 69. Damages how assessed by a jury; summons for jury; proceedings.  
 70. Damages and expenses how collected.  
 71. When value of a discontinued road to be deducted from damage of new.  
 72. When commissioners of different towns disagree, to meet together, &c.  
 73. When highway necessary upon line of two towns, by whom laid out.  
 74. Such highway to be divided into two or more road districts.  
 75. Each district to belong to town to which allotted.  
 76. Provision as to all such highways heretofore laid out.  
 77. When private road applied for, twelve freeholders to be appointed to examine.  
 78. If they determine road to be necessary, to make certificate thereof; damages, &c.  
 79. By whom and for what purposes private roads used.  
 80. Public roads not to be less, and private, not more than three rods wide.  
 81 & 82. Applications to discontinue an old road; proceedings thereon.  
 83. All papers relating to laying out, &c. road, to be filed in town clerk's office.  
 84. Persons aggrieved, may appeal to three common pleas judges.  
 85. Judges to whom first appeal made, to have exclusive jurisdiction.  
 86. Appeal to be in writing, and to state grounds of appeal.  
 87. Judges to proceed as soon as convenient, to give notice to commissioners, &c.  
 88. Notice to be served eight days before time mentioned therein.  
 89. When judges to convene; attendance of witnesses; decision conclusive.  
 90. Each judge entitled to two dollars a day; by whom paid.  
 91. If decision against laying out road be reversed, judges to lay it out.  
 92. If office of a judge become vacant, another to be associated.  
 93. Road fixed by judges, not to be altered, &c. without their order.  
 94. If no one of the judges be in commission, application to whom to be made.  
 95. Application under either of two last sections to be accompanied by certificate.  
 96. When commissioners to give owner notice to remove fences.  
 97. When notice to be given, if determination of commissioners be appealed from.  
 98. Acts of commissioners of highways confirmed since 31st December, 1806.  
 99. Highways laid out and not worked in six years, to cease to be a road.  
 100. What deemed public highways.  
 101. Public highways used for twenty years, to be opened to width of two rods.

ART. 4.

§ 54. Every person liable to be assessed for highway labor, may <sup>Who may</sup> apply to the commissioners of highways of the town in which he shall <sup>apply.</sup> reside, to alter or discontinue any road, or to lay out any new road. Every such application shall be in writing, addressed to the commissioners, and signed by the person applying.

§ 55. Whenever the commissioners of highways shall lay out, al- <sup>Survey.</sup> ter or discontinue any road, either upon application to them or otherwise, they shall cause a survey to be made of such road, and shall incorporate such survey in an order to be signed by them, and to be filed and recorded in the office of the town clerk, who shall note the time of recording the same.

§ 56. It shall be the duty of the town clerk, whenever any order <sup>Order to be</sup> of the commissioners for laying out, altering or discontinuing a road <sup>posted, &c.</sup> shall be received by him, to post a copy of such order on the door of the house where the town-meeting is usually held; and the time herein after limited for appealing from any such order, shall be computed from the time of recording the same.<sup>30</sup>

TITLE I  
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 Substitutes
 bound to
 work

§ 38. Every person assessed to work on the highways, and warned to work, may appear in person or by an able bodied man as a substitute; and the person or substitute so appearing, shall actually work eight hours in each day, under the penalty of twelve and a half cents for every hour such person or substitute shall be in default, to be imposed as a fine on the person assessed.²³

Penalty for
 neglect, &c.

§ 39. If any such person or his substitute shall, after appearing, remain idle, or not work faithfully, or hinder others from working, such offender shall, for every offence, forfeit the sum of one dollar.²⁴

Penalty for
 not working,
 &c.

§ 40. Every person so assessed and duly notified, who shall not commute, and who shall refuse or neglect to appear as above provided, shall forfeit for every day's refusal or neglect, the sum of one dollar. If he was required to furnish a team, carriage, man or implements, and shall refuse or neglect to comply, he shall be fined as follows:

1. For wholly omitting to comply with such requisition, three dollars for each day;
2. For omitting to furnish a cart, wagon or plough, one dollar for each day;
3. For omitting to furnish a pair of horses or oxen, one dollar for each day;
4. For omitting to furnish a man to manage the team, one dollar for each day.²⁵

Complaints
 how made.

§ 41. It shall be the duty of every overseer of highways, within six days after any person so assessed and notified, shall be guilty of any refusal or neglect for which a penalty or fine is prescribed in this Title, unless a satisfactory excuse shall be rendered to him for such refusal or neglect, to make complaint on oath, to one of the justices of the peace of the town.²⁶

Proceedings.

§ 42. The justice to whom such complaint shall be made, shall forthwith issue a summons directed to any constable of the town, requiring him to summon such delinquent, to appear forthwith before such justice, at some place to be specified in the summons, to shew cause why he should not be fined according to law for such refusal or neglect: which summons shall be served personally, or by leaving a copy at his personal abode.²⁶

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§ 43. If, upon the return of such summons, no sufficient cause shall be shown to the contrary, the justice shall impose such fine as is provided in this Title for the offence complained of, and shall forthwith issue a warrant under his hand and seal, directed to any constable of the town where such delinquent shall reside, commanding him to levy such fine, with the costs of the proceedings, of the goods and chattels of such delinquent.²⁶

laying out the highway. If they shall determine to lay out such highway, they shall make out and subscribe a certificate of such determination, describing the road so laid out, particularly, by routes and bounds and by its courses and distance, and shall deposit the same with the town clerk.³⁴ ART. 4.

§ 64. The damages sustained by reason of the laying out and opening such road, may be ascertained by the agreement of the owner and the commissioners of highways, provided such damages do not exceed twenty-five dollars; and unless such agreement be made, or the owner of the land shall in writing release all claim to damages, the same shall be assessed in the manner prescribed in the next section, before such road shall be opened, or worked, or used. Every such agreement and release shall be filed in the town clerk's office, and shall for ever preclude such owner from all further claim for such damages.³⁴

Damages how ascertained by agreement.
Road not to be opened, &c.

§ 65. On the application of the commissioners of highways, or of the owner of the land through which such road is laid out, to any two justices of the peace of the town, they shall issue their warrant to some constable of some other town of the same county, neither interested, nor of kin to any person interested, in the land through which the road is laid out; directing him to summon twelve disinterested freeholders, residing in some other town than that in which such road is laid out, and not of kin to the owner of such land, to assess the damages sustained by the laying out such road; and shall therein specify the time and place at which the jury shall meet.³⁴

Damages how assessed by jury.

§ 66. Upon such freeholders appearing, the justices who issued the warrant, shall draw by lot, six of the names of the persons attending, to serve as a jury; and the first six persons drawn, who shall be free from all legal exceptions, shall be the jury to assess the said damages.³⁴

Proceedings.

§ 67. In all cases of the assessment of such damages, the persons by whom the assessment is to be made, shall view and examine the premises; and before making their determination, the freeholders making the same, shall be sworn well and truly to determine and assess such damages.³⁴

§ 68. The verdict of the jury assessing such damages, shall be received and certified by the two justices who issued the warrant for summoning them, and shall be delivered by them to the commissioners of highways of the town.³⁴

§ 69. Such commissioners shall cause a copy of the said verdict, with a statement of the charges and expenses, to be delivered to the supervisor of the town, who shall lay the same before the board of su-

(34) 2 R. L. 275, § 16, 33, & 45; Laws of 1817, p. 31, § 1; 1826, p. 220, § 27.

TITLE 1. supervisors of the county. The board shall have power to examine into the principles on which such assessment shall have been made, and into the fairness and justice thereof, and to increase or reduce the damages, as in their judgment shall be just and reasonable.³⁵

Damages and expenses, how collected.

§ 70. The amount of damages, as finally settled by the board of supervisors, or as liquidated by the commissioners of highways, as provided in the sixty-fourth section of this Title, together with the charges of the commissioners of highways, justices, surveyors and other persons or officers employed in making the assessment, shall be levied and collected in the town within which the highway shall be situated. The monies so collected, shall be paid to the commissioners of highways of the same town, who shall pay to the owner the sum assessed to him, and appropriate the residue to satisfy the charges.³⁶

Damages in certain cases, how estimated.

§ 71. Where any person shall be the owner of any land over which any highway shall run, and such highway shall be discontinued, in whole or in part, by reason of some other road to be established and laid out under this Title, through the lands of the same person, the persons who shall assess the damages shall take into calculation the value of the road so discontinued, and the benefit resulting to such person by reason of such discontinuance, and shall deduct the same from the damages assessed for the opening and laying out such new road; and thereupon the owner of the land may enclose so much of the highway so discontinued, as shall belong to him.³⁶

Disagreements respecting certain roads.

§ 72. When the commissioners of highways of any town shall disagree with the commissioners of any other town in the same county, relating to the laying out of a new road, or the alteration of an old road, extending into both towns; or when the commissioners of a town in one county shall disagree with the commissioners of a town in another county, relative to laying out a new road, or altering an old road, which shall extend into both counties; the commissioners of both towns shall meet together at the request of either disagreeing commissioners, and make their determination upon such subject of disagreement.³⁷

Road upon line of two towns.

§ 73. Whenever it shall become necessary to have a highway upon the line between two towns, such highway shall be laid out by two or more of the commissioners of highways of each of said towns, either upon such line, or as near thereto as the convenience of the ground will admit; and they may so vary the same either to the one or the other side of such line, as they may think proper.³⁸

How divided into districts.

§ 74. It shall be the duty of the same commissioners, when they lay out such highway, to divide it into two or more road districts, in such manner, that the labour and expense of opening, working, and

(35) 2 R. L. 275, § 16, 38, & 45; Laws of 1817, p. 31, § 1; 1826, p. 220, § 27. (36) 2 R. L. 275, § 17. (37) Ib. § 18. (38) Ib. § 19; Laws of 1821, p. 166.

keeping in repair such highway, through each of the said districts, may be equal as near as may be, and to allot an equal number of the said districts to each of the said towns.³⁹

ART. 4.

§ 75. Each district shall be considered as wholly belonging to the town to which it shall be allotted, for the purpose of opening and improving the road, and for keeping it in repair; and the commissioners shall cause such highway, and the partition and allotment thereof, to be recorded in the office of the town clerk in each of their respective towns.³⁹

Effect of allotment.

§ 76. All highways heretofore laid out upon the line between any two towns, shall be divided, allotted, recorded, and kept in repair, in the manner above directed.³⁹

Former roads.

§ 77. Whenever application shall be made to the commissioners of highways of any town, for a private road, they shall summon twelve disinterested freeholders of the town where the land through which such road is proposed to be laid out, is situated, to meet on a day certain; of which day, notice shall be given to the owner or occupant of such land. Such freeholders, when met, shall be sworn as above provided, and shall then proceed to view the lands through which such road is applied for.⁴⁰

Private roads how laid out.

§ 78. If they shall determine that such road is necessary, they shall make and subscribe a certificate in manner aforesaid, and the commissioners shall thereupon lay out the road, and cause a record thereof to be made in the town clerk's office. The damages of the owner of the land through which such road shall be laid out, shall be ascertained or assessed in like manner as if the same was a public highway, and such damages shall be paid by the person applying for the road.⁴⁰

Proceedings.

§ 79. Every such private road, when so laid out, shall be for the use of such applicant, his heirs and assigns; but not to be converted to any other use or purpose, than that of a road. Nor shall the occupant or owner of the land through which such road shall be laid out, be permitted to use the same as a road, unless he shall have signified his intention of so making use of the same, to the jury or commissioners, who ascertained the damages sustained by laying out such road, and before such damages were so ascertained.⁴⁰

For what purpose road to be used.

§ 80. All public roads to be laid out by the commissioners of highways of any town, shall not be less than three rods wide, and all private roads shall not be more than three rods wide.⁴¹

Width of roads.

§ 81. Whenever application shall be made for the discontinuance of an old road, on the ground that it has become useless and unnecessary, the commissioners of highways to whom such application shall

Old roads how discontinued.

(39) 2 R.-L. 275, § 19; Laws of 1821, p. 166. (40) Ib. § 20. (41) Ib. § 22; Laws of 1826, p. 228, § 2.

TITLE 1. be made, shall summon twelve disinterested freeholders of the town, to meet on a day certain, to consider such application. Such freeholders when met, shall be sworn well and truly to examine and certify in regard to the propriety of such discontinuance.

fb. § 82. They shall then proceed to view such road, and if they shall be of opinion that the same is useless and unnecessary, they shall make and subscribe a certificate in writing to that effect, which shall be delivered to the commissioners of highways, who shall thereupon proceed to decide upon such application.

Papers where filed. § 83. All applications, certificates and other papers relating to the laying out, altering or discontinuing of any road, shall be filed by the commissioners of highways, as soon as they shall have decided thereon, in the office of the town clerk of the town.

Appeals. § 84. Every person who shall conceive himself aggrieved by any determination of the commissioners of highways, either in laying out, altering or discontinuing, or in refusing to lay out, alter or discontinue any road, may at any time within sixty days thereafter, appeal to any three of the judges of the court of common pleas of the county, in which such road is situated. But an appeal by one person, and a decision thereon, shall not conclude nor affect the rights of any other person, who shall appeal within the limited period.⁴²

Power and duty of judges. § 85. The judges to whom the first appeal from any such determination shall be made, shall have exclusive jurisdiction of all appeals from the same determination, to the end that their decision when made may embrace the whole subject; and for this purpose they shall suspend all proceedings upon the appeal first made, and upon all other appeals received by them from such determination, until the time limited for such appeals shall have expired.

Form of appeal. § 86. Every such appeal shall be in writing, addressed to the judges, and signed by the party appealing. It shall briefly state the ground upon which it is made, and whether it is brought to reverse entirely the determination of the commissioners, or only to reverse a part thereof; and in the latter case, it shall specify what part.

Proceedings. § 87. It shall be the duty of the judges to whom the appeal is made, to proceed thereon as soon as may be convenient. Where the determination appealed from was against an application for laying out, altering or discontinuing a road, the judges shall give notice to the commissioners by whom such determination was made. Where the appeal is from a determination in favor of an application for laying out, altering or discontinuing a road, the notice shall be given to the commissioners, and to one or more of the applicants for such road.

In all cases, the notice shall specify the time and place, at which the judges will convene to hear the appeal.⁴³ ART. 4

§ 88. Every such notice shall be served at least eight days before the time mentioned therein, by delivering the same to one of the commissioners whose determination is appealed from, or by leaving the same at his dwelling-house. If the notice be also directed to an applicant, it shall be served in the same manner. Notice of appeal.

§ 89. It shall be the duty of the judges to convene at the time and place mentioned in the notice, and to hear the proofs and allegations of the parties. They shall have power to issue process to compel the attendance of witnesses, and may adjourn from time to time, as may be necessary. Their decision, or that of any two of them, shall be conclusive in the premises, and every such decision shall be reduced to writing, be signed by the judges making it, and be filed by them in the office of the town clerk of the town, who shall record the same.⁴³ Proceedings.

§ 90. Every such judge shall be entitled to receive two dollars, for every day employed in the hearing and decision of such appeal, to be paid by the party appealing where the determination of the commissioners shall be affirmed : but where it is reversed, to be a charge against the county.⁴³ Fees.

§ 91. Where an appeal shall have been made from a determination of commissioners refusing to lay out or alter a road, and the judges shall reverse such determination, such judges shall lay out or alter the road applied for ; and in doing so, shall proceed in the same manner in which commissioners of highways are directed to proceed, in the like cases. Such road shall be opened by the commissioners of the town, in the same manner as if laid out by themselves. When to lay out road.

§ 92. In case the office of any one of the judges to whom such appeal shall be made, shall become vacant before the determination of such appeal, it shall be the duty of the remaining judges named therein, to associate with themselves another of the judges of the same court, who shall act with them in all subsequent proceedings, in the same manner as if he had been originally named in such appeal. Vacancies.

§ 93. No road which has been fixed by the decision of the judges on an appeal to them, shall be discontinued or altered, so long as such judges, or either of them, shall continue in commission, except by the order of the same judges, or such of them as continue in commission, joined with such other judge or judges, as shall be necessary to make three ; such additional judge or judges, to be selected by the person applying for the discontinuance or alteration.⁴⁴ How altered.

TITLE 1.

ib.

§ 94. If no one of the said judges shall continue in commission, such application shall be made to any three of the judges of the same court, not having any interest in the road so desired to be discontinued or altered.⁴⁵

ib.

§ 95. No application made under either of the two last preceding sections, shall be acted upon by the judges, unless the same be accompanied by a certificate, signed by the commissioners of highways of the town in which the road is situated, stating their approbation of such application; and before the judges decide thereon, they shall proceed to view the road, so desired to be discontinued or altered. They shall be entitled to the same compensation as above provided, to be paid by the applicant.⁴⁶

Fences to be removed.

§ 96. Whenever the commissioners of highways shall have laid out any public highway, through any enclosed, cultivated or improved lands, in conformity to the provisions of this Title, and their determination shall not have been appealed from, they shall give the owner or occupant of the land through which such road shall have been laid, sixty days' notice, in writing, to remove his fences. If such owner shall not remove his fences within the sixty days, the commissioners shall cause such fences to be removed, and shall direct the road to be opened and worked.⁴⁷

ib.

§ 97. If the determination of the commissioners shall have been appealed from, then the sixty days' notice shall be given, after the decision of the judges upon such appeal, shall have been filed in the office of the town clerk of the town.⁴⁷

Certain acts of commissioners confirmed.

§ 98. The acts and doings of the commissioners of highways of the several towns in this state, or of any two of them, in laying out, altering or discontinuing any road or highway, since the thirty-first day of December, one thousand eight hundred and five, and prior to the fourteenth day of April, one thousand eight hundred and twenty-six, are confirmed from the last mentioned day; provided such commissioners, or any two of them, shall have caused a survey of such roads or highways to be filed and recorded in the office of the town clerk of the town. But such confirmation shall not affect any decision of the judges of the court of common pleas, made prior to the fourteenth day of April, one thousand eight hundred and twenty-six, confirming or reversing the determination of the said commissioners; nor any appeal from such determination, made within six months after that day; nor any suits or proceedings which on that day were pending, at law or in equity.⁴⁸

When roads cease.

§ 99. Every public highway already laid out, that shall not have been opened and worked within six years from the time of its being

(45) Laws of 1819, p. 156, § 1. (46) 2 R. L. 252, § 37. (47) Ib. § 39. (48) Laws of 1826, p. 229, § 8.

so laid out, and every such highway hereafter to be laid out, that shall not be opened and worked, within the like period, shall cease to be a road for any purpose whatever.⁴⁹ ART. 5

§ 100. All public highways now in use, heretofore laid out and allowed by any law of this state, of which a record shall have been made in the office of the clerk of the county or town; and all roads not recorded, which have been or shall have been used as public highways, for twenty years or more; shall be deemed public highways, but may be altered in conformity to the provisions of this Title.⁵⁰ What roads highways.

§ 101. It shall be the duty of the commissioners of highways, to order the overseers of highways, to open all roads to the width of two rods at least, which they shall judge to have been used as public highways for twenty years.⁵⁰ Wideth.

ARTICLE FIFTH.

Regulations and Penalties concerning the Obstruction of Highways, and Encroachments thereon.

- Sec. 102. Five dollars forfeiture for obstructing highway.
- 103. Where fences encroach on highways, commissioners to order them removed.
- 104. If not removed as required, party to forfeit fifty cents a day until removed.
- 105. If encroachment denied, jury to be summoned to inquire into premises.
- 106. Jury to be sworn, and to hear proofs and allegations.
- 107 & 108. Finding of jury, how enforced; who to pay costs, &c.
- 109. No fences to be removed but between first of April and November.
- 110. When trees fall into highway, occupant to remove them; penalty for neglect.
- 111. Persons cutting trees without consent of occupant, to forfeit one dollar, &c.
- 112. Five dollars penalty for leaving trees in any waters declared a highway.
- 113. No swinging gates allowed, except on lands liable to be overflowed.
- 114. Such gates to be maintained by the person benefitted.
- 115. If more than one, expense borne by all the occupants benefitted thereby.
- 116. Overseer of district in which such gates are, to file statement of charges, &c.
- 117. Overseers to collect such charges from persons bound to pay them.
- 118. Commissioners to file an account of such gates in town clerk's office; penalties.

§ 102. Whoever shall obstruct any highway, or shall fill up or place any obstruction in any ditch constructed for draining the water from any highway, shall forfeit for every such offence the sum of five dollars.⁵¹ Penalty for obstructing.

§ 103. In every case where a highway shall have been laid out, and the same has been or shall be encroached upon by fences, erected by any occupant of the land through or by which such highway runs, the commissioners of highways of the town, shall, if in their opinion it be deemed necessary, order such fences to be removed, so that such highway may be of the breadth originally intended. The commissioners making the order, shall cause the same to be reduced to writing, and signed. They shall also give notice in writing, to the occupant of the land, to remove such fences within sixty days. Every such order and notice shall specify the breadth of the road originally Fences, when and how to be removed.

(49) 2 R. L. 277, § 23. (50) *Ib.* § 24; *Laws of 1827*, p. 32, § 3. (51) 2 R. L. 277, § 23.

TITLE 1. intended, the extent of the encroachment, and the place or places in which the same shall be.⁵²

Penalty. § 104. If such removal shall not be made, within sixty days after the service of such notice, the occupant to whom the notice shall be given, shall forfeit the sum of fifty cents for every day, after the expiration of that time, for which such fences shall continue unremoved.⁵²

Proceedings if encroachment be denied. § 105. If the occupant to whom notice is given, shall deny such encroachment, the commissioners, or some one of them, shall apply to any justice of the peace of the county, for a precept directed to any constable of the town, to summon twelve freeholders thereof, to meet at a certain day and place, to be specified in such precept, and not less than four days after the issuing thereof, to inquire into the premises. The constable to whom such precept shall be directed, shall give at least three days' notice to the commissioners of highways of the town, and to the occupant of the land, of the time and place at which such freeholders are to meet.⁵²

Id. § 106. On the day specified in the precept, the jury so summoned, shall be sworn by such justice, well and truly to inquire whether any such encroachment has been made, and by whom. Such witnesses as may be produced by either party, shall also be sworn by such justice; and the jury shall hear the proofs and allegations which may be produced and submitted.⁵²

Verdict, how enforced. § 107. If the jury find that any encroachment has been made, they shall make and subscribe a certificate in writing, stating the particulars of such encroachment, and by whom made; which shall be filed in the office of the town clerk. The occupant of the land, whether such encroachment shall have been made by him, or by any former occupant, shall remove his fences within sixty days after the filing of such certificate, under the penalty provided in the one hundred and fourth section of this Title. He shall also pay the costs of such inquiry; and if the same shall not be paid within ten days, the justice shall issue a warrant for the collection thereof, in the manner provided in the forty-third section of this Title.⁵²

Id. § 108. If the jury find that no encroachment has been made, they shall so certify, and shall also ascertain and certify the damages which the then occupant shall have sustained by such proceeding; which, together with the costs thereof, shall be paid by the commissioners, and shall be a charge in their favor against the town by which they shall have been elected.⁵²

When fences to be removed. § 109. No person shall be required to remove any fence under the preceding provisions of this Article, except between the first day of April and the first day of November in any year.⁵²

§ 110. If any tree shall fall, or be fallen by any person from any enclosed land into any highway, any person may give notice to the occupant of the land from which such tree shall have fallen, to remove the same within two days. If such tree shall not be removed within that time, but shall continue in such highway, the occupant of the land shall forfeit the sum of fifty cents for every day thereafter, until such tree shall be removed.⁵³

ART. 5.

Fallen trees to be removed.

§ 111. In case any person shall cut down any tree on land not occupied by him, so that it shall fall into any highway, river or stream, unless by the order and consent of the occupant, the person so offending shall forfeit to such occupant, the sum of one dollar for every tree so fallen, and the like sum for every day the same shall remain in such highway, river or stream.⁵³

Penalty for falling trees.

§ 112. Whoever shall cut, or cause to be cut down, any tree, that the same shall fall into any river or stream, which now is or hereafter shall be declared a public highway, and shall not remove the same out of such river or stream, within twenty-four hours thereafter, shall forfeit five dollars for every tree so cut down and left remaining.⁵³

For not removing from streams.

§ 113. No swinging or other gates shall be allowed on any public highway, laid out by virtue of this Title, or which has heretofore been laid out, other than such public highways as run through lands liable to be overflowed by the waters of the adjacent rivers or streams, in such manner as to remove the fences thereon.⁵⁴

Swinging gates.

§ 114. Such gates shall be erected and kept in good repair, by the overseers of highways of the town, at the proper costs and charges of the occupant of the land, for whose benefit the same shall be erected.⁵⁴

How erected and preserved.

§ 115. If more than one gate shall be erected, and the intermediate land between the gates, at the extremities of such lands, shall be in the occupation of more than one person benefitted by such gates, the whole charge of erecting and keeping the same in repair, shall be borne by all the occupants benefitted thereby, in proportion to the extent of land each occupies adjoining the highway, between the gates at the extremities aforesaid.⁵⁴

Expense.

§ 116. The overseer of every road district in which such gates shall be, shall, on or before the first day of November in every year, make out and file with the town clerk, a statement of the charges incurred in the erection or repairing of such gates, with the name of the person bound to defray the same; which account shall be verified by the oath of such overseer. If more than one person is liable to de-

Proceedings to collect.

TITLE I. **fray such charges, the statement shall also contain an apportionment thereof between such persons, stating the amount to be paid by each.**

D. § 117. The overseer shall, within ten days after filing the statement, demand of every person bound to pay such charges, or to contribute thereto, the sum due from him, according to such statement; and if any person shall refuse or neglect to pay such monies within six days after demand, it shall be the duty of the overseer to make complaint to a justice of the peace of the town, and the like proceedings shall be had for the recovery of such monies, as in the recovery of fines, for refusing or neglecting to work on the highways.⁵⁵

Gates to be closed, &c. penalty.

§ 118. The commissioners of highways shall file an account of such gates in the town clerk's office; and if any person shall open any such gate, and shall not, immediately after having passed the same, close it, or shall wilfully or unnecessarily ride over any of the grounds, adjoining the road on which such gates shall be permitted, he shall forfeit to the party injured, treble damages.⁵⁶

ARTICLE SIXTH.

Of the Erection, Repairing, and Preservation of Bridges.

- Sec. 119. When supervisors to raise money for erecting or repairing of bridges.
 120. Not more than 1000 dollars to be raised in any one year under last section.
 121. Determination of supervisors touching allowance for bridges, how revised.
 122. Notice of penalty for riding, &c. faster than a walk over bridges.
 123. Forfeiture of one dollar for violating notice.
 124. Treble damages for injuring bridges.

When at expense of county.

§ 119. Whenever it shall appear to the board of supervisors of any county, that any one of the towns in such county, would be unreasonably burthened, by erecting or repairing any necessary bridge or bridges, in such town, such board of supervisors shall cause such sum of money to be raised and levied upon the county, as will be sufficient to defray the expenses of erecting or repairing such bridge or bridges, or such part of such expenses as they may deem proper; and such monies, when collected, shall be paid to the commissioners of highways of the town, in which the same are to be expended.⁵⁶

Limit.

§ 120. No board of supervisors shall, under the last preceding section, cause any sum exceeding one thousand dollars, to be levied and raised on any county in any one year.⁵⁶

Appeal.

§ 121. In case the commissioners of highways of any town, shall be dissatisfied with the determination of the board of supervisors of their county, touching an allowance for any such bridges, such determination shall, on the application of the commissioners, be revised by the court of common pleas of the same county, whose order in the premises shall be observed by every such board of supervisors.⁵⁶

§ 122. The commissioners of highways of each town, may put up and maintain in conspicuous places, at each end of any bridge in such town, maintained at the public charge, and the length of whose chord is not less than twenty-five feet, a notice with the following words in large characters, "one dollar fine for riding or driving on this bridge, faster than a walk."⁵⁷

ART. 7.
Notice of
fine, &c.

§ 123. Whoever shall ride or drive faster than on a walk, over any bridge, upon which, such notices shall have been placed, and shall then be, shall forfeit for every offence the sum of one dollar.⁵⁷

Penalty.

§ 124. Whoever shall injure any bridge maintained at the public charge, shall, for every offence, forfeit treble damages.

Injuries to
bridges.

ARTICLE SEVENTH.

Miscellaneous Provisions of a General Nature.

Sec. 125. When two commissioners may make orders in execution of this Title.

126. Who to have the use of trees on land over which highway is laid out.

127. By whom trees may be planted on side of highway; penalty for injuring.

128. Penalty for destroying, &c. mile-board.

129. Penalty for defacing, &c. description on guide-board.

130. Treble damages for injuring highway.

131. Penalties in this Title, when to be recovered by commissioners.

132. To what places provisions of this Title are to extend.

§ 125. Any two commissioners of highways, of any town, may make any order, in execution of the powers conferred in this Title; provided it shall appear in the order filed by them, that all the commissioners of highways of the town met and deliberated on the subject embraced in such order, or were duly notified to attend a meeting of the commissioners, for the purpose of deliberating thereon.⁵⁸

Two commis-
sioners may
act.

§ 126. All trees standing or lying on any land over which any highway shall be laid out, shall be for the proper use of the owner or occupant of such land, except such of them as may be requisite to make or repair the highways or bridges on the same land.⁵⁹

Trees; to
whom they
belong.

§ 127. Any person owning land adjoining any highway not less than three rods wide, may plant or set out trees on the side of such highway contiguous to his land; which trees shall be set in regular rows, at a distance of at least six feet from each other. Whoever shall cut down, destroy or injure any tree that has been or shall be so planted or set out, shall be liable in damages to the owner of such adjoining land.⁶⁰

Trees may be
planted.

Penalty for
injuring.

§ 128. Whoever shall destroy, remove, injure or deface any mile-board or mile-stone, erected on any highway, shall forfeit for every offence, the sum of ten dollars; he shall also be deemed guilty of a misdemeanor, and on conviction, shall be fined not exceeding fifty dol-

Penalty for
injuring mile-
boards.

(57) Laws of 1827, p. 234, § 2. (58) Laws of 1826, p. 220, § 9. (59) 2 R. L. 279, § 28.

TITLE I. lars, or imprisoned not exceeding three months, at the discretion of the court.⁶⁰

Do. as to
guide posts.

§ 129. Whoever shall injure or deface any description affixed to a guide-post erected on any highway, or destroy or injure any such guide-post, shall be liable to all the penalties provided in the last preceding section.⁶¹

Injuries to
roads.

§ 130. Whoever shall injure any highway, by obstructing or diverting any creek, water-course or sluice, or by drawing logs or timber on the surface of any road or bridge, or by any other act, shall, for every such offence, forfeit treble damages.

Penalties
how recover-
ed.

§ 131. All penalties or forfeitures given in this Title, and not otherwise specially provided for, shall be recovered by the commissioners of highways of the town, in which the offence shall be committed; and when recovered, shall be applied by them in improving the roads and bridges in such town.

Extent of this
Title.

§ 132. The provisions of this Title shall be construed to extend to all parts of the state, except where special provisions inconsistent therewith, have been or shall be made by law, in relation to particular counties, cities, villages or towns.

TITLE II.

OF THE REGULATION OF FERRIES.

Sec. 1. Common pleas to grant licenses to keep ferries.

2. Owner of land through which highway runs to the ferry, first entitled.

3. Any other person applying, to give notice to such owner.

4. Persons applying for license, to enter into recognizance.

5. Licenses to be entered in book of minutes of court.

6. When stream divides two counties, license obtained in either good.

7. Persons violating recognizance, guilty of misdemeanor.

8. Penalty on persons using ferries without license.

9. Offence on waters dividing counties, may be proceeded against in either.

10. This Title not to affect ferries granted by corporation of Albany or Hudson, &c.

Licenses by
whom grant-
ed.

§ 1. The court of common pleas in each of the counties of this state, shall grant licenses for keeping ferries in their respective counties, to as many suitable persons as they may think proper; which licenses shall continue in force, for a term to be fixed by the court, not exceeding three years.⁶²

To whom.

§ 2. No such license shall be granted to any person, other than the owner of the land, through which the highway adjoining to the ferry shall run, unless such owner shall neglect to apply for such license, after notice as herein after provided.⁶³

Ib.

§ 3. Whenever application for a ferry shall be made by any person other than such owner, the court shall not grant a license to such

applicant, unless proof shall be made, that the applicant caused notice, in writing, to be given to such owner, at least eight days before the sitting of the court, of his intention to make such application. TITLE 2.

§ 4. Every person applying for such license, shall, before the same be granted, enter into a recognizance to the people of this state, in open court, in the sum of one hundred dollars, faithfully to keep and attend such ferry, with such and so many sufficient and safe boats, and so many men to work the same, as shall be deemed necessary, together with sufficient implements for said ferry, during the several hours in each day, and at such several rates as the court granting the license, shall, from time to time, order and direct; which recognizance shall be forthwith filed with the clerk of the county.⁶³ Recognizance.

§ 5. Every license so granted, shall be entered in the book of minutes of the court by the clerk; and a copy thereof, attested by him, shall be delivered to the person licensed.⁶⁴ To be entered.

§ 6. Whenever the waters over which any ferry may be used, shall divide two counties, a license obtained in either of the said counties, shall be sufficient to authorise the person obtaining the same, to transport persons, goods, wares and merchandize, to and from either side of said waters.⁶⁵ Effect of certain licenses.

§ 7. Every person who shall violate the condition of such recognizance, shall be considered guilty of a misdemeanor; and on conviction, shall be subject to such fine as the court may adjudge, not exceeding twenty-five dollars for each offence; and on proof of such conviction, the court of common pleas shall direct the recognizance entered into by such person, to be estreated for the use of the people of this state.⁶⁶ Penalty for misconduct.

§ 8. If any person (except within the counties of Essex and Clinton, the counties of Orange, Rockland and Westchester, and the counties in the first senate district,) shall use any ferry for transporting across any river, stream, or lake, any person, or any goods, chattels or effects, for profit or hire, unless authorised in the manner directed in this Title, such person shall be considered guilty of a misdemeanor; and on conviction, shall be subject to such fine, for the use of the county, as the court may adjudge, not exceeding twenty-five dollars for each offence.⁶⁷ Penalty for ferrying without license.

§ 9. Where any such offence shall be committed on waters dividing two counties, the person so offending may be proceeded against in each of said counties; but the fine to be imposed, shall not exceed twelve dollars and fifty cents in each case.⁶⁸ Proceedings.

§ 10. Nothing in this Title contained, shall affect or alter the ferris granted by charter to the corporations of Albany and Hudson, or Limitation of this Title.

(63) 2 R. L. 210, § 2. (64) *Ib* § 3. (65) *Ib*. § 1 & 2.

TITLE 1. alter or impair any grants made by this state, or any legal right or privilege whatever, belonging to any individual or corporation, by virtue of any law of this state, or otherwise.⁶⁶

CHAP. XVII.

Of the Regulation of Trade in certain cases.

TITLE 1.—Of sales by auctioneers.

TITLE 2.—Of the inspection of provisions, produce and merchandize.

TITLE 3.—Of the tare of butter firkins, and the packing and sale of pressed hay.

TITLE 4.—Of hawkers and pedlers.

TITLE I.

OF SALES BY AUCTIONEERS

- Sec. 1. Duties upon goods sold at auction.
2. Goods how to be struck off. Duties if purchased by auctioneer or owner.
3. Goods sold by auctioneer at private sale, subject to duties.
4. Articles exempt from duties.
5. When goods liable to duties shall be exempt.
6. By whom sales at auction to be made.
7. Penalty for violating preceding section.
8. When auctioneers may employ a partner or clerk to hold auction in their name.
9. Goods damaged at sea, under whose direction sold.
10. Inspectors of damaged goods to be appointed.
11. Auctioneers to give bonds.
12. Bonds by whom to be approved of.
13. Approbation to be endorsed, and bond to be delivered to comptroller.
14. Officer taking bond, to give notice to comptroller.
15. Penalty for selling goods without giving bond.
16. Penalty on auctioneer for accepting appointment from another state, &c.
17. No auctioneer at same time to have more than one auction house or store.
18. Not to sell at any place different from that designated, except in certain cases.
19. Penalty for violating two last sections.
20. Common council of cities may designate places for sale of horses, &c.
21. Auctioneers to give two days' notice of sales not made at their auction store.
22. Five hundred dollars penalty for violating last section.
23. Auctioneer to receive 2 1-2 per cent. commission, unless an agreement for more.
24. Penalty for violating last section.
25. When goods liable to duties are not to be sold at private sale.
26. When auctioneer to make a memorandum of sale.
27. Auctioneers to account quarterly; contents of account.
28. Account to be exhibited to mayor or recorder of cities, or to county judge.
29. Oath of auctioneer rendering account.
30. Partner of auctioneer also to make oath of truth of account.
31. In account rendered, partner or clerk of auctioneer to state sales made by him, &c.
32. Auctioneer to pay duties in ten days after rendering account.
33. To whom and where payments to be made.
34. Receipts taken for such payments to be sent to comptroller.
35. Auctioneer selling no goods liable to duties, to make affidavit thereof.
36. Penalty on auctioneer for neglect of duties prescribed in last nine sections.
37. Comptroller to publish every such neglect; appointment forfeited.
38. Certain goods in New-York to be sold between sunrise and sundown; penalty.
39. Penalty upon auctioneer guilty of fraud in execution of his duties.
40. Forfeitures imposed by this Title, how to be collected and applied.

SECTION 1. All goods, wares and merchandize, and every other species of personal property, which shall at any time be exposed to sale by public auction within this state, with the exceptions mentioned in the fourth and fifth sections of this Title, shall be subject, each and every time they shall be struck off, to duties at the following rates, namely:

TITLE 1.
Duties on
auction sales.

1. All wines and ardent spirits, foreign or domestic, at the rate of two dollars on every hundred dollars :

2. All goods, wares, merchandize, and effects imported from any place beyond the Cape of Good Hope, and sold in packages, bales, trunks or casks, as imported, at the rate of one dollar on every hundred dollars :

3. All other goods, wares, merchandize and effects, at the rate of one dollar and fifty cents on every hundred dollars.

The duties shall be calculated on the sums for which the goods so exposed to sale shall be respectively struck off, and shall in all cases be paid by the person making the sale.¹

§ 2. Goods sold by auction, shall in all cases be struck off to the highest bidder ; and where the auctioneer or owner, or any person employed by them or either of them, shall be such bidder, they shall be subject to the same duties as if struck off to any other person ; but this section shall not be construed to render valid any sale, that would otherwise be deemed fraudulent and void.¹

How to be
struck off.

§ 3. All articles which shall be sold by an auctioneer on commission, whether at auction or private sale, shall be liable to the payment of the duties before enumerated.²

Private sales
by auction-
eers.

§ 4. No auction duties shall be payable upon the following goods and articles :

Articles ex-
empt.

1. Ships and vessels :

2. Utensils of husbandry, horses, neat cattle, hogs and sheep :

3. Articles of the growth, produce or manufacture of this state, except distilled spirits :

4. All fabrics of cotton, wool, hemp and flax, manufactured within the jurisdiction of the United States.³

§ 5. Goods and chattels otherwise liable to the auction duties, shall be exempt therefrom, if they shall be sold under the following circumstances :

Sales exempt.

1. If they shall belong to the United States, or to this state :

2. If they shall be sold under any judgment or decree of any court of law or equity ; or under a seizure by any public officer, for or on account of any forfeiture or penalty ; or under a distress for rent :

(1) Laws of 1817, p. 326, § 1. (2) *Ib.* § 11. (3) *Ib.* § 8.

TITLE I.

3. If they shall belong to the estate of a deceased person, and be sold by his executors or administrators, or by any other person duly authorised by a surrogate :

4. If they shall be the effects of a bankrupt or insolvent, and be sold by his assignees appointed pursuant to law, or by a general assignment for the benefit of all the creditors of such bankrupt or insolvent :

5. If they shall be goods damaged at sea, and be sold within twenty days after they shall have been landed, for the benefit of the owners or insurers.⁴

Sales by whom made.

§ 6. All sales at public auction in the city of New-York, not under the authority of the United States, and all such sales in other parts of the state where duties are payable on the effects to be sold, shall be made by an auctioneer who shall have given the security herein after required, or by a copartner or clerk of an auctioneer duly authorised under the provisions of this Title ; but where no duties are payable, all such sales, except in the city of New-York, may be made by any citizen of this state.⁵

Penalty.

§ 7. Every person who shall sell, or attempt to sell, at public auction, any goods or effects, contrary to the provisions of the last preceding section, shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court by which he shall be tried : the fine in no case to exceed five hundred dollars ; the imprisonment, three months.⁶

Copartner or clerk.

§ 8. Every auctioneer, in case of his inability to attend an auction, by sickness, by his duty as a fireman, by reason of military orders, or by his necessary attendance in a court of justice, or in case of his temporary absence from the city or place for which he is appointed, may employ a copartner or clerk to hold such auction in his name and behalf.⁷

Goods damaged at sea.

§ 9. Goods damaged at sea, and sold for the benefit of the owners or insurers, shall be sold, in the city of New-York, under the direction of the wardens of the port, and in other cities and counties of the state, under the direction of persons appointed to inspect damaged goods in the city or county where the sale is made.⁸

Inspectors of such goods.

§ 10. One or more, not exceeding three, inspectors of damaged goods, whenever their appointment shall be necessary, shall be appointed in the cities of Albany, Troy and Hudson, by the mayor or recorder of those cities respectively ; and in every other county of the state, by any judge of the county courts, to whom application for that purpose shall be made.⁹

(4) Laws of 1817, p. 329, § 8. (5) *Ib.* Laws of 1824, p. 37, § 2. (6) *Ib.* p. 35, § 2.
(7) Laws of 1817, p. 331, § 11. (8) *Ib.* § 8.

§ 11. No person appointed to the office of an auctioneer, shall execute the duties of such office, until he shall have entered into a bond to the people of this state, with two sufficient freeholders as his sureties, in the penalty of five thousand dollars, conditioned for the faithful performance of the duties of his office, and for the payment of the duties that are, or shall be, imposed by law, and that shall accrue on sales made by him or under his direction, by virtue of his office.⁹

TITLE I.
Bond.

§ 12. Such bond, if executed by an auctioneer appointed in a city, shall be taken and approved of by the mayor or recorder of such city; and if executed by an auctioneer appointed for a county, by any judge of the county courts of such county.⁹

How approved.

§ 13. The officer taking the bond, shall endorse upon it a certificate of his approbation, and of the day on which it was taken, and shall deliver the bond thus endorsed, to the auctioneer by whom it shall have been executed, who within ten days thereafter shall deliver, or cause the same to be delivered, to the comptroller.⁹

How disposed of.

§ 14. Every officer taking such bond, shall, without delay, transmit a notice to the comptroller, stating the name of the auctioneer and his sureties entering into the bond, and the day on which the same was executed and approved.

Ib.

§ 15. Every auctioneer who shall sell any goods, wares, merchandize or effects, by public auction, without having given the security above required, shall forfeit the sum of one hundred and twenty-five dollars for each article so exposed by him to sale.⁹

Penalty for acting without bond.

§ 16. Every auctioneer, who, during his term of office, shall accept an appointment as auctioneer from any other state, or who shall be concerned as principal or partner in selling any goods, wares, merchandize, or effects, in any other state by public auction, or who shall receive any reward, compensation or benefit, for or on account of any such sale, shall be deemed guilty of a misdemeanor, and on conviction shall forfeit his appointment, and be incapable forever thereafter of acting as an auctioneer within this state.¹⁰

Further penalty.

§ 17. No auctioneer in any city of this state, shall at the same time have more than one house or store, for the purpose of holding his auctions; and every such auctioneer before he shall enter on the execution of his office, shall designate, in a writing signed by him, such house or store, and shall also name therein the partner or partners, if any, engaged with him in business, and shall file such writing with the clerk of the city, for which he shall be appointed.¹¹

Auctioneers to have but one auction house.

§ 18. No such auctioneer shall expose to sale by public auction, any goods or articles liable to auction duties, at any other place than

And not to sell elsewhere.

(9) Laws of 1817, p. 527, § 4. (10) Ib. § 16. (11) Ib. § 9.

TITLE 1. that designated in the writing so deposited by him, except goods sold
Exceptions. in original packages as imported, household furniture, and such bulky
 articles as have usually been sold in warehouses, or in the public
 streets, or on the wharves.¹²

Penalty. § 19. Every such auctioneer, who shall violate any provision of
 the two last sections, shall be deemed guilty of a misdemeanor, pun-
 ishable by a fine not exceeding two hundred and fifty dollars for each
 offence.¹²

Place for sale of horses, &c. § 20. The common council of each city in this state, may desig-
 nate such place or places, within such city, for the sale by auction of
 horses, carriages, and household furniture, as they shall deem expedi-
 ent.¹²

Notice of certain sales. § 21. Every auctioneer in a city, shall give at least two days pre-
 vious notice, in one or more of the public newspapers printed in the
 city for which he shall be appointed, of every auction sale, that shall
 be lawfully made by him, at any other place than the house or store
 designated by him, in the manner above required.¹²

Penalty. § 22. Every auctioneer who shall violate the provisions of the last
 section, shall forfeit the sum of five hundred dollars for each offence.¹²

Commission. § 23. No auctioneer shall demand or receive a higher compensa-
 tion for his services, than a commission of two and one half per cent.
 on the amount of any sales, public or private, made by him, unless by
 virtue of a previous agreement in writing, between him and the owner
 or consignee of the goods or effects sold.¹⁴

Penalty. § 24. Every auctioneer who shall violate the provisions of the last
 section, shall forfeit the sum of two hundred and fifty dollars, to eve-
 ry person from whom he shall demand or receive an unlawful com-
 pensation or commission, and shall also be liable to refund the monies
 so illegally received.¹⁴

Private sales when and where prohibited. § 25. No auctioneer, on the day and at the place where his pub-
 lic auction shall be held, nor any person whatever, on the same day
 and at the same place, shall sell at private sale any goods or effects—
 liable to auction duties; and every person who shall violate this pro-
 vision, shall forfeit a sum equal to the price for which such goods—
 shall have been sold.¹⁵

Entry in sale book. § 26. When goods shall be struck off at auction, and the bargain—
 shall not be immediately executed by the payment of the price, or the
 delivery of the goods, it shall be the duty of the auctioneer, to enter,
 in a sale-book to be kept by him for that purpose, a memorandum of
 the sale, specifying the nature, quantity and price of the goods, the

(12) Laws of 1817, p. 330, § 9. (13) *Ib.* § 13. (14) *Ib.* § 14. (15) *Ib.* § 11.

terms of sale, and the names of the purchaser, and of the person on whose account the sale is made. TITLE 1.

§ 27. Every auctioneer who shall have entered into the bond required by law, shall make out in writing a quarterly account, dated on the first days of April, July, October and January, in the year for which he is appointed, and shall therein state minutely and particularly, Quarterly account.

1. The sums for which any goods or effects shall have been sold at every auction held by him, or in his behalf, from the time of his entering into such bond, or the date of his last quarterly account :

2. The days on which sales were so made, and the amount of each day's sale, designating the sales made by himself or in his presence, and those made in his absence by a partner or clerk acting in his behalf, and specifying the causes of such absence :

3. The amount of all private sales made by himself or any of his partners, on commission, and the days on which such sales were made :

4. The amount of the duties chargeable under the provisions of this Title, on all the sales, public and private, mentioned in the account.¹⁶

§ 28. Every such account, within twenty days after the day on which it is dated, shall be exhibited, if made out, by an auctioneer appointed in a city, to the mayor or recorder of such city ; and if by an auctioneer appointed for a county, to any judge of the county courts of such county.¹⁶ To whom exhibited.

§ 29. Every auctioneer exhibiting an account, shall take the following oath, before the officer to whom the account shall be exhibited : " I _____ do solemnly and sincerely swear, (or affirm) that the account now exhibited by me, and to which I have subscribed my name, contains a just and true account of all the goods, wares, merchandize and effects, sold or struck off, or bought in by me, at public sale, or sold by me at private sale on commission, whether subject to duty or not, or sold, struck off, or bought in as aforesaid, by others in my name, or under my direction, or for my benefit, within the time mentioned in the within account ; and of the days upon which the same were respectively sold ; and that I have attended, personally, such of the said public sales as are not stated in the said account to have been made without my attendance ; and that the causes therein mentioned, of my absence from such sales as I did not attend, are truly stated : that I have examined the entries of all the sales mentioned in said account in the book kept by me for that purpose, and fully believe this account to be in all respects correct ; and further, that I have, during the time therein mentioned, conformed, in all things, to the true intent and meaning of the laws regulating sales by Oath.

(16) Laws of 1817, p. 828, § 5 & 6.

TITLE 1. auctioneers, according to the best of my knowledge, information and belief." Such oath shall be reduced to writing, be endorsed on the account, and be subscribed by the auctioneer taking it.¹⁷

Partner also to make oath.

§ 30. Every partner of such auctioneer shall also make and subscribe an oath, to be endorsed on the account, that he believes the account so rendered, to be just and true in every particular.¹⁷

Duty of partner or clerk as to account.

§ 31. Every partner or clerk, who shall have made any sale on behalf of an auctioneer, shall, in the account rendered by such auctioneer, set his name, or the initials thereof, opposite to each sale made by him, mentioned in such account; and shall make and subscribe an affidavit to be annexed to such account, stating that the sales so noted are all the sales liable to auction duties, public or private, made by him within the time mentioned in the account, and that the account of such sales, so therein stated, is just and true; that such sales were made by him, in the absence of such auctioneer, who was unable to attend from the causes specified in his account; and that in all acts performed by him, in behalf of such auctioneer, during the time aforesaid, he had endeavored to conform to the true intent and meaning of the laws regulating sales by auctioneers.¹⁸

Duties when to be paid.

§ 32. Every auctioneer, within ten days after he shall have exhibited his account, shall pay for the use of this state, the duties accrued on the sales mentioned in the account, together with the additional sum of two and one half per cent. on the whole amount of such duties, and immediately after such payment, shall deliver or transmit such account, with the affidavits endorsed thereon, and annexed thereto, to the comptroller, to be filed in his office.¹⁹

Payments where to be made.

§ 33. Every such payment, if made by an auctioneer appointed for any other place than the city of New-York, shall be made to the treasurer of this state, and by every auctioneer in the city of New-York, shall be made to such bank in the city of New-York as shall be designated by the comptroller, as entitled to the state deposits according to law; and the receipt of the proper officer of the bank shall be taken therefor.¹⁹

Receipt to be sent to comptroller.

§ 34. The auctioneer taking such receipt shall immediately transmit the same to the comptroller, who shall thereupon certify such payment to the treasurer, and charge him with the amount thereof.¹⁹

Affidavit if no sales be made.

§ 35. Every auctioneer, who within the period limited for his accounting, shall have made no sales, public or private, of goods or effects liable to auction duties, shall make and subscribe an affidavit of those facts, before any officer to whom his account, had such sales been made by him, might have been exhibited, and shall transmit a copy of such affidavit, certified by the officer taking it, to the comp

(17) Laws of 1817, p. 328, § 5 & 6. (18) *Ib.* § 11. (19) *Ib.* § 5, 6, & 19.

troller, within the same time that an account is required to be rendered.²⁰

TITLE 2.

§ 36. Every auctioneer, and every partner or clerk of an auctioneer, who shall refuse or neglect to perform any act or duty, which in either of the last nine sections he is required to perform, shall, for each offence, forfeit to the people of this state, the sum of seven hundred and fifty dollars.²¹

Penalty for neglect of duty.

§ 37. It shall be the duty of the comptroller to certify and publish in the state paper, every such refusal or neglect of an auctioneer; and from the time of such publication, the delinquent auctioneer therein named, shall be deemed to have forfeited his appointment, and shall be incapable of doing any act by virtue thereof.²¹

Publication of neglect.

§ 38. All sales of goods, by public auction, in the city of New-York, by an auctioneer, shall be made in the day time, between sunrise and sun-set, excepting,

Sales in New-York.

1. Books, or prints :

2. Goods sold in the original package, as imported, according to a printed catalogue, of which samples shall have been opened and exposed to public inspection, at least one day previous to the sale.

Every auctioneer who shall violate the provisions of this section, shall be deemed guilty of a misdemeanor, and on conviction, shall forfeit his appointment.²²

Penalty.

§ 39. Every person who shall be guilty of any fraud or deceit, in the execution of this Title, or who shall, by any fraudulent means, seek to elude or defeat its operation, shall be deemed guilty of a misdemeanor, and shall forfeit treble damages to the party injured.

§ 40. All forfeitures, imposed in this Title, and not otherwise specially appropriated, shall be prosecuted for, by the district attorney of the county in which the offence shall be committed, in the name of the people; and it shall be the duty of the comptroller to give immediate notice to the proper district attorney, of every such forfeiture believed to have been incurred. The monies recovered, deducting a proper compensation to the district attorney, to be settled by the comptroller, shall be paid to the treasurer of the county in which the offence shall be committed, for the use of the poor of such county.

Forfeitures, how prosecuted for.

TITLE II.

OF THE INSPECTION OF PROVISIONS, PRODUCE, AND MERCHANDIZE.

ART. 1.—Of the inspection of flour and meal.

ART. 2.—Of the inspection of beef and pork.

ART. 3.—Of the inspection of pot and pearl ashes.

(20) Laws of 1817. p. 228, § 5, 6, & 10. (21) *Ib.* § 9. (22) *Ib.* § 10.

- TITLE 1. ART. 4.—Of the inspection of fish.
 ART. 5.—Of the inspection of fish or liver oil.
 ART. 6.—Of the inspection of lumber.
 ART. 7.—Of the inspection and culling of staves and heading.
 ART. 8.—Of the inspection of flax-seed.
 ART. 9.—Of the inspection of sole leather.
 ART. 10.—Of the inspection of hops.
 ART. 11.—Of the inspection of distilled spirits.
 ART. 12.—Of the inspection of leaf tobacco, in the city of New-York.
 ART. 13.—General provisions.

ARTICLE FIRST.

Of the Inspection of Flour and Meal.

- SEC. 1. Flour and meal not to be exported from this state, unless inspected ; exceptions.
 2. When and where to be inspected, and when to be re-inspected.
 3. Flour and meal manufactured in this state for exportation, to be packed in casks.
 4. Dimensions of casks.
 5, 6, 7 & 8. Casks how marked and branded.
 9. When packed and branded, inspector to inspect same.
 10. His duty in so doing.
 11. No cask containing Indian meal to be branded, unless made of kiln-dried corn.
 12. Inspector to deliver to owner, flour and meal taken from cask.
 13. Flour and meal not made in this state, to be inspected before sale in New-York.
 14. Penalty for shipping flour and meal without being inspected.
 15. Vessels suspected to contain flour, &c. shipped contrary to law, to be searched.
 16. Inspector may seize and sell all flour or meal so shipped ; his proceedings.
 17. Penalty for offering casks of flour or meal, on which tare is undermarked.
 18. Penalty for undermarking tare of cask.
 19. Penalty for exporting casks marked "light."
 20. Penalty for neglecting to have flour or meal inspected at place of exportation.
 21. Penalty for altering brand marks.
 22. Penalty for offering for sale mixed flour, as good wheat flour.
 23. Penalty for transporting into New-York, Indian meal, upon deck of vessel.
 24. No inspector to purchase or sell flour or meal, except for his own use ; penalty.
 25. Not to be connected with any flour manufacturer or merchant ; penalty.
 26. Inspector in New-York, when to give certificate of quality of flour, &c.
 27. Genuineness of such certificate, how verified ; presumptive evidence.
 28. Inspectors in New-York, Albany, and Troy, may appoint assistants, &c.
 29. Inspector in New-York may execute his duties in adjoining counties.
 30. Compensation of inspectors.

Flour and
meal, when
to be inspect-
ed.

§ 1. No wheat flour, rye flour, Indian meal, or buckwheat meal shall be shipped for exportation from this state, excepting to be carried down the Susquehannah, or on the lakes, or the river St. Lawrence, unless it shall have been inspected, approved and branded, according to the provisions of this Article. But this prohibition shall not extend to any flour or meal, which shall be brought from any other state, through one of the canals, and which shall have been inspected and branded, according to the laws of such state.²³

1b-

§ 2. All flour or meal purchased for exportation, shall be inspected at the place of exportation ; and if shipped between the first day of May and the first day of October, shall be re-inspected at the time it shall be shipped, unless it shall have been inspected within thirty days previous to such shipment.

(23) This Article was compiled, with some variations and additions, from the following statutes : 3 R. L. 320 ; Laws of 1822, p. 117 ; 1827, p. 328.

§ 3. All wheat flour, rye flour, Indian meal, or buckwheat meal, manufactured for exportation in this state, shall be packed in good and strong casks, made of seasoned oak, or other sufficient timber, and hooped with at least ten hoops, three of which shall be on each chime, and properly nailed.

ART. 1.
How packed.

§ 4. The casks shall be of two sizes only; one size shall contain one hundred and ninety-six pounds of flour or meal, with staves of twenty-seven inches long, and each head sixteen and one half inches in diameter; the other size shall contain ninety-eight pounds, with staves twenty-two inches long, and each head fourteen inches in diameter, or with staves twenty seven inches long, and each head not more than twelve inches in diameter; but Indian meal may likewise be packed in hogsheads, which shall contain eight hundred pounds.

Size of casks.

§ 5. The casks shall be made as nearly straight as may be, and their tare shall be marked on one head with a marking iron; they shall likewise be branded with the weight of the flour and meal contained therein, and with the initials of the christian name and the surname of the manufacturers thereof, at full length, except hogsheads of Indian meal, on which the weight only shall be branded.

lb. how marked and branded.

§ 6. Every such cask of wheat flour, shall be branded as follows: n. if of a very superior quality, "Extra Superfine;" if of a quality now branded "Superfine," with the word "Superfine;" if of a third quality, "Fine;" if of a fourth quality, "Fine Middlings;" if of a fifth quality, "Middlings;" if of a sixth quality, "Ship Stuffs."

§ 7. Each cask of rye flour intended for the first quality, shall be branded with the words "Superfine Rye Flour;" and each cask intended for the second quality, with the words "Fine Rye Flour."

§ 8. Each cask of Indian meal shall be branded with the words "Indian Meal;" and each cask of buckwheat meal, with the letter and word "B. Meal."

§ 9. When the flour and meal has been packed, and the casks branded, according to the preceding provisions, application may be made to an inspector of flour and meal, and it shall be his duty to examine and determine the quality of the flour and meal.

Inspector to inspect.

§ 10. It shall be the duty of the inspector,

His duty.

1. To ascertain by examination the weight of all the casks which he may suspect of being falsely tared:

2. To alter and correct the brands, in all cases where he shall be of opinion, that they do not designate the real quality of the flour or meal:

3. To weigh such casks as he shall suspect not to contain the full weight, and if they do not contain the full weight, to brand them with the word "Light:"

TITLE 2 4. To brand all casks containing flour or meal so damaged as not to be fit for exportation, with the word "Bad :"

And lastly, on all casks made, branded and packed, according to the provisions of this Article, to brand in a legible manner on the quarter, the initials of his christian name and his surname, at full length, together with the name of the county where the inspection has been made.

Indian meal. § 11. No inspector shall brand any cask containing Indian meal, unless the same shall have been made of corn, properly kiln dried, and shall be ground fine and bolted.

Flour or meal taken from cask in inspecting. § 12. The inspector, if required, shall deliver to the owner, or his agent, all flour or meal taken from a cask, with the augur or instrument that he shall use for the purpose of inspection, under the penalty of twenty-five dollars, to be recovered by the owner, in addition to his actual damages and costs of suit.

Flour sold in New York, when to be inspected. § 13. All flour or meal not manufactured within this state, which shall be offered for sale in the city of New-York, in casks, except damaged flour sold as such at auction, shall be inspected previous to its being so offered, in the same manner as flour intended for exportation, and be subject to all the provisions and penalties of this Article.

Penalty for shipping flour or meal not inspected. § 14. Every person who shall ship, or attempt to ship, for exportation from this state, any flour or meal not inspected and branded according to the provisions of this Article, shall forfeit the same; and every person who shall have exported from this state, any such flour or meal, shall forfeit the sum of five dollars for every cask so exported.

Power and duties of inspector. § 15. Every inspector shall have power to enter on board of any vessel between sunrise and sunset, to search for flour or meal that he may suspect to have been shipped contrary to the provisions of this Article; and every person who shall obstruct any inspector in the execution of this duty, shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court by which he shall be tried.

ib. § 16. It shall be the duty of every inspector, to seize and take into his possession all flour and meal that he shall discover to have been shipped, or attempted to be shipped, contrary to the provisions of this Article. He shall sell the same at public auction, giving at least five days' public notice, in some newspaper printed in the county or place for which he is appointed, of the time and place of such sale; and shall pay the proceeds, deducting ten per cent. for his trouble and expenses, to the superintendents, or other persons having the charge of the poor, in the county or place where the seizure shall be made.

Penalty for selling when tare is undermarked. § 17. Every person knowingly offering for sale any cask of flour or meal, upon which the tare shall be undermarked, or in which there

shall be a less quantity of meal than is branded thereon, shall forfeit ART. 1. five dollars for every cask so undermarked, or deficient, one half to the use of the person who shall be injured and shall prosecute for the same, with such other damages as he shall sustain, and the other half to the use of the poor of the city or town where the recovery shall be had.

§ 18. Every manufacturer of flour or meal, who shall undermark For under-marking tare, &c. the tare of any cask, or shall put therein a less quantity of meal than is branded thereon, shall forfeit the sum of five dollars for every cask so undermarked, or deficient, one half to the use of the person who shall be injured, and shall prosecute for the same, with such other damages as he shall sustain, and the other half to the use of the poor of the city or town where the conviction shall be had; but such penalty shall not be recovered, when the light weight shall appear to have been occasioned by some accident unknown to such manufacturer, and which happened after the packing of the cask.

§ 19. Every person who shall export from this state any flour or For export- ing light casks. meal in casks, which shall have been marked "light" by an inspector, shall forfeit the sum of five dollars for every cask so branded and exported.

§ 20. Every purchaser of flour or meal for exportation, who shall For neglect to have flour or meal in- spected. neglect to have the same duly inspected and branded at the place of exportation, according to the provisions of this Article, shall forfeit the sum of five dollars for every cask so purchased and not inspected, although such cask may have been inspected and branded previous to such purchase.

§ 21. Every person who shall alter or counterfeit any brand marks, For counter- feiting marks. whether state or private, made under the provisions of this Article, shall forfeit the sum of one hundred dollars for every cask, the brand of which shall be so altered or counterfeited; and every person who shall put any flour or meal in an empty cask, branded by an inspector, and offer the same for sale in such cask, without first cutting out the brands, shall, for each cask, forfeit the sum of five dollars.

§ 22. Every person who shall knowingly offer for sale as good For selling mixed flour. wheat flour, any flour which shall be found to contain a mixture of Indian meal, or any other mixture, or any unsound flour, shall forfeit for every cask the sum of five dollars; and for the payment of this penalty, the flour shall be liable, and may be seized and sold by the inspector.

§ 23. Every person having charge of any vessel, who shall trans- For trans- porting In- dian meal on deck. port into the city of New-York any Indian meal upon the deck of the vessel, shall forfeit twenty cents for every barrel, and eighty cents for every hogshead of such meal.

TITLE 2.

Inspector not
to deal in
flour or meal.

§ 24. No inspector of flour or meal shall purchase or sell any flour or meal, except for his private use, or be directly or indirectly concerned in any such purchase, under the penalty of five hundred dollars for each offence.

1b.

§ 25. No such inspector shall be in any manner connected in business or trade, with any flour manufacturer or flour merchant, or act as agent for any such manufacturer or merchant, or any other person, in the purchase or sale of flour or meal; and every inspector who shall violate this provision, shall forfeit his office, and shall be forever thereafter incapable of acting as an inspector, under any of the inspection laws of this state.

Inspector to
give certifi-
cate.

§ 26. It shall be the duty of the inspector of flour in the city and county of New-York, whenever required, to certify under his hand, the quality of any flour inspected by him, and the state and condition thereof, and of the barrels containing the same, specifying, as particularly as may be, the extent of any damage, appearing on such inspection; the apparent cause thereof, whether by exposure or injury in transportation, or in consequence of the original putting up of such flour; and also specifying the brands or other marks upon the casks inspected, and the name of the consignees thereof. For every such certificate, the inspector shall be entitled to receive ten cents for every folio of one hundred words contained therein.

Certificate
how endorse-
d.

§ 27. Every such certificate shall be presented to the clerk of the city and county of New-York, and if he shall be satisfied that it is genuine, and that the person signing the same is inspector of flour and meal for that city, he shall endorse thereon his own certificate to that effect, under his hand and seal of office; and every certificate of an inspector thus verified, shall be presumptive evidence, in all courts, of the facts therein contained.

Assistants.

§ 28. The inspector of flour and meal in the city of New-York, and such inspector in each of the cities of Albany and Troy, may appoint as many assistants to assist him in the execution of the duties of his office, as he may deem necessary, who shall hold their office during his pleasure; and for whose acts, all of which shall be performed in his name, he shall be responsible.

Powers of
inspector in
New-York.

§ 29. Such inspector for the city and county of New-York, may execute the duties of his office, in any county immediately adjoining. He shall appoint a deputy in the county of Kings, to inspect all flour and meal manufactured for inspection in that county; which, when so inspected, may be exported from that county, and from any other part of the state, in the same manner as if inspected in the city of New-York.

§ 30. Every inspector of flour and meal shall be entitled to receive the following compensation for his services, to be paid by the person offering such flour or meal for inspection :

ART. 2.
Compensation.

1. For inspecting, boring, branding and plugging every hogshead, four cents ; every barrel and half-barrel, one cent and a half, when inspected in the city and county of New-York, and two cents when inspected in any other county :

2. For weighing and ascertaining the light weight or under-tare, of every hogshead under-tared, thirty cents ; of every barrel and half-barrel, six cents.

ARTICLE SECOND.

Of the Inspection of Beef and Pork.

- Sec. 31. Beef and pork not to be exported without inspection.
- 32. Exceptions from the preceding section.
- 33. Penalty for violating two last sections.
- 34. Inspectors of beef and pork to give bond.
- 35. To provide store or yard, when storage allowed.
- 36. Barrels for re-packing beef and pork, how to be made.
- 37. Dimensions of barrels.
- 38. What staves and heads to be made of.
- 39. Hoops to be well set, &c. ; barrels how to be branded ; size of half-barrels.
- 40. In what barrels beef and pork re-packed in certain counties, may be packed.
- 41. Inspector to brand none but well fatted and properly packed beef and pork.
- 42. Different qualities of pork.
- 43. How much salt and pickle to be put into each barrel.
- 44. No thin or bad pork to be branded under the foregoing provisions.
- 45. What beef may be re-packed for exportation.
- 46. Different qualities of beef, and of what each shall consist.
- 47. How much salt, &c. to be put into each barrel.
- 48. Bloody and neck pieces of beef, how to be prepared.
- 49. Beef and pork re-packed, how pickled ; duty of inspectors, if casks are too large.
- 50. Weight, &c. of every barrel to be branded on its head.
- 51. How beef killed according to customs of Jews, to be packed, &c.
- 52. Provisions of two sections of Article 1st, to apply to beef and pork in New-York.
- 53. Fees of inspectors.
- 54. Penalty on inspector for being concerned in purchasing cattle or hogs for sale.
- 55. Penalty on inspector for inspecting, &c. out of his own county.
- 56. The store and yard of inspector in New-York, to be on margin of river.
- 57. Penalty on persons not being inspectors for branding casks, &c.
- 58. Penalty for exposing beef or pork to sun, &c. after inspection.
- 59. Penalty for intermixing or shifting beef or pork after being branded.
- 60. Penalty for slaughtering cattle or hogs contrary to this Article.

§ 31. No beef or pork, with the exceptions stated in the next section, shall be exported or shipped for exportation from this state, unless it shall have been previously inspected, pickled and branded by an inspector duly qualified, and according to the provisions of this Article.²⁴

Beef and pork when to be inspected.

§ 32. The preceding section shall not extend to beef or pork, exported or shipped to either of the provinces of Upper or Lower Canada, by way of the lakes, or of the river St. Lawrence ; nor to beef or pork brought into this state from any of the United States, and packed

ib. Exceptions.

(24) Compiled, with some amendments, from the following statutes : 2 R. L. 824 ; Laws of 1814, p. 149 ; 1815, p. 288 ; 1821, p. 9 ; 1825, p. 437.

TITLE 2. and branded agreeably to the laws of the state whence it is brought ; nor shall it be construed to prevent any licensed butcher from putting up beef in barrels, half-barrels, tubs or kegs, for ship stores, or in kegs or tubs for exportation, if such beef be put up by the butcher killing the same, and the name of such butcher, and the weight contained, be branded on the head of each barrel, half-barrel, keg or tub.

Penalty. § 33. Every person who shall ship, or attempt to ship any beef or pork, contrary to the provisions of the two last sections, shall forfeit the sum of fifteen dollars for every barrel and half-barrel so shipped or attempted to be shipped.

Inspector's bond. § 34. Every inspector of beef and pork, before he shall enter on the duties of his office, shall give a good and sufficient bond, with one or more sureties, to the people of this state, to be approved of by the clerk of the county in which such inspector may reside, both as to the form of such bond, and the competency of the surety or sureties, in the penalty of two thousand dollars, conditioned for the faithful performance of his duties as such inspector, under the laws of this state ; which bond shall be duly filed in the office of such county clerk.

Store or yard. § 35. Every such inspector shall provide himself with a good and sufficient store or yard, capable of receiving and storing such beef and pork, as may be brought to him for inspection, in such place, as will be most accommodating to employers, and best calculated to facilitate their business ; but nothing shall be allowed for storage of any inspected beef or pork, if it shall be removed and taken away within three days after notice given to the owner or agent, of its being re-packed.

Barrels how made, &c. § 36. All barrels in which any beef or pork shall be re-packed, shall be made of good seasoned white oak or white ash staves and heading, free from every defect ; and each barrel shall contain two hundred pounds of beef or pork.

10. § 37. Such barrels shall measure seventeen and a half inches, between the chimes, and be twenty-eight inches long, and hooped with twelve good hickory, white oak, or other substantial hoops ; if the barrel be made of ash staves, it shall be hooped with fourteen hoops, at least.

11. § 38. Such staves, and heads, shall be made of good thick stuff, the heads not less than three quarters of an inch thick ; and each and every stave, on each edge, at the bilge, shall not be less than half an inch thick, when finished.

12. § 39. Such hoops shall be well set and drove, and the barrels branded on the bilge with at least the initial letters of the cooper's name ; the half barrels shall contain not less than fifteen, nor more than sixteen gallons, and be made in proportion to, and of like mate-

rials as a whole barrel, and shall contain one half the quantity of beef and pork of the whole barrel. ART. 2.

§ 40. All beef and pork, which shall be re-packed in, and exported from the counties of Suffolk, Kings and Queens, may be packed in barrels as nearly straight as may be, made of good seasoned red oak staves and heading of the growth of the said counties respectively, free from sap and every defect, and made otherwise as above directed; and without being subject to a re-examination, may be exported from the city of New-York.

§ 41. Every inspector shall examine and sort all beef and pork, that he shall inspect, and shall brand none but such as is well fattened; and packed in casks of the proper dimensions. Inspector to examine.

§ 42. There shall be three qualities of pork, that may be branded on inspection: Qualities of pork.

1. The first quality shall be denominated "mess pork," and shall consist of the sides of good fat hogs, exclusive of all other pieces; and each barrel containing it, shall be branded on one of its heads, "Mess Pork:"

2. The second quality shall be denominated "prime pork," of which there shall not be, in a barrel, more than three shoulders, the legs being cut off at the knee joint, nor more than twenty-four pounds of heads, which shall have the ears and snouts cut off, the snouts cut off to the opening of the jaws, and the brains and bloody grizzle taken out of the heads; and the rest of the pork to constitute a barrel of prime, shall be made up of side pieces, neck and tail pieces; and one head of every barrel of such pork, shall be branded, "Prime Pork:"

3. The third quality shall be denominated "cargo pork," of which there shall not be in a barrel more than thirty pounds of head and four shoulders, it shall be otherwise merchantable pork; and shall be branded on one head of each barrel, "Cargo Pork:"

4. Side pork so re-packed, shall be cut from the back-bone to the belly, in pieces of about five inches wide, and which in weight shall not be under four pounds; otherwise the barrels containing the same shall not be branded as merchantable.

§ 43. Into every barrel of pork branded by an inspector, under the preceding section, there shall be put not less than sixteen quarts of salt, equal in weight to good and pure Turks-Island salt, and a strong new pickle; but if such pork is inspected and branded when fresh, then there shall not be less than twenty-four quarts of salt of the same quality above designated put into every barrel, exclusive of strong new pickle. Salt and pickle.

§ 44. No thin, soft, rusty, meazly or tainted pork, shall in any case be branded under the foregoing provisions; but pork of that de- Bad pork.

TITLE 2 description shall be marked by the inspector on the head of every barrel containing it, with paint, and by such marking its true character shall be designated.

What beef to be re-packed for exportation.

§ 45. No beef shall hereafter be re-packed, in barrels, for exportation, unless it be of fat cattle not under three years old; and all such beef shall be cut into pieces, as square as may be, and which shall not exceed twelve, nor be under four pounds in weight.

Qualities.

§ 46. All beef which an inspector shall find on examination to have been killed at a proper age, and to be fat and merchantable, shall be sorted and divided for packing and re-packing, in barrels and half-barrels, into four different sorts, to be denominated "extra mess," "mess," "prime," and "cargo beef."

1. Extra mess beef shall consist of none but the most choice pieces of the largest and fattest cattle, and weighing not less than six hundred pounds of beef, excluding the hide and tallow:

2. Mess beef shall consist of the choice pieces of such beef, as is large and well fattened, without hocks, shanks, clod or necks, and may, or may not, contain two choice rounds out of the same cattle, not exceeding ten pounds each:

3. Prime beef shall consist of choice pieces of good fat cattle, of which there shall not be more in a barrel, than one half neck, nor more than two shanks, with the hocks cut off of the hind-legs at the smallest place above the joint:

4. Cargo beef shall be of fat cattle, with a proportion of good pieces, and not more than one-half of a neck, three shanks with the hocks cut off in the same manner as in prime, in a barrel, and to be otherwise merchantable:

On one of the heads of each barrel and half-barrel, containing the proper quantity of beef of any one of the qualities above described, the inspector shall brand the words "Extra Mess Beef," or "Mess Beef," or "Prime Beef," or "Cargo Beef," according to the quality of the beef inspected.

Salt, &c.

§ 47. Into every barrel of beef, that shall be so inspected and re-packed, there shall be put not less than twenty quarts of salt, equal in weight to good Turks-Island salt, four ounces of salt petre, and in addition, a strong new pickle.

Bloody and neck pieces.

§ 48. All bloody and neck pieces of beef offered for inspection, before they shall be put up and branded, shall lie in salt, or salt and pickle, a sufficient length of time to extract the blood, to the satisfaction of the inspector.

Pickle how made.

§ 49. All beef and pork re-packed, within this state, shall be pickled with strong good pickle, made of any kind of good clean salt, as much as will dissolve in good fresh water; and if the barrels and half-barrels shall be larger than the dimensions prescribed in this Article, they

shall be condemned by the inspector, or be filled up by him with good pieces of beef or pork, at the expense of the owner, if the owner shall so elect. ART. 2

§ 50. On the head of every barrel and half-barrel of merchantable Barrels, how made. beef or pork, inspected and re-packed, shall be distinctly branded the weight it contains, with the first letter of the christian name, and the surname at full length, of the inspector, who has inspected the same, or both names at full length, with the words "New-York City," if inspected in the city and county of New-York; and the name of the county, and the words "State of New-York," if inspected and branded in any other county.

§ 51. All beef, killed according to the rites and customs of the Beef for Jews. people, called Jews, shall be packed and put up according to the directions of this Article, and shall be branded with the additional brand of that society, and may be packed and put up in ten and five gallon kegs.

§ 52. All the provisions of the twenty-sixth and twenty-seventh Preceding sections adopted. sections in the preceding Article of this Title, shall be construed to apply to the inspector, and the inspection, of beef and pork in the city of New-York, and the certifying of the damage thereof, in the same manner and to the same extent as if the words "beef and pork," were inserted in those sections in place of the word "flour," wherever it occurs therein.

§ 53. Every inspector shall have fifteen cents, for each barrel, and ten cents, for each half-barrel of beef or pork he shall inspect, salt and re-pack; ten cents for flagging, pegging, nailing, salting and pickling; three cents for each hoop put by him on any cask; and such fees shall be paid before the beef or pork inspected shall be taken from the store or yard of the inspector. Compensation of inspector.

§ 54. No inspector of beef and pork shall be in any wise concerned in purchasing any cattle or hogs, with an intention to pack the same for sale, or in any manner to become a partaker of the profits or loss of any beef or pork, when the same is intended for packing, under the penalty of five hundred dollars for each offence. Prohibition.

§ 55. No inspector shall inspect, or brand, any cask of beef or pork Ib. out of the city, or county, for which he shall be appointed, nor shall an inspector in any case, lend or hire out his brands, to any person whatever, under the penalty of twenty-five dollars for each barrel so Penalty. inspected or branded.

§ 56. The store or yard of every inspector in the city and county Ib. city of New-York. of New-York, shall be on the margin of the East or North River, and no such inspector shall inspect and re-pack any beef or pork, at

TITLE 2. any other place, than in his store or yard, under the penalty of fifteen dollars, for every barrel or cask so inspected.

Penalty. § 57. Every person, other than an inspector duly authorised, who shall brand any cask of beef or pork in the manner directed by this Article, shall forfeit the sum of fifteen dollars, for each and every cask, so branded.

lb. § 58. No owner or dealer in beef and pork, shall suffer the same, after it shall have been inspected, to be exposed to the heat of the sun, or inclemency of the weather, longer than twelve hours, under the penalty of five dollars for every such offence.

lb. § 59. Every person who shall intermix, take out or shift any beef or pork of any barrel or cask inspected or branded as in this Article is required; or put into any barrel inspected and branded, any other beef or pork for sale or exportation; or alter or change the brand or mark of any inspector, shall for every such cask or barrel so altered, shifted, changed, intermixed or branded, forfeit the sum of twenty-five dollars.

lb. § 60. Every person interested in slaughtering cattle or hogs, or causing the same to be slaughtered, for the purpose of having the same barrelled for inspection, contrary to the provisions of this Article, shall forfeit the sum of twenty-five dollars for every head of cattle or hogs so slaughtered, or caused to be slaughtered.

ARTICLE THIRD.

Of the Inspection of Pot and Pearl Ashes.

- Sec.** 61. Ashes not to be shipped, except to certain places, without inspection.
 62. Certain inspected ashes may be exported without re-inspection.
 63. Casks in which ashes are to be put.
 64. Duty of inspectors in inspecting.
 65. Penalty on inspector for entering on invoice, &c., any cask not weighed.
 66. Weigh-note, or copy, with certificate of county clerk, presumptive evidence.
 67. If cask be defective, inspector to put it in repair, if it can be done for 75 cents.
 68. If not, cask to be condemned, and new one furnished by inspector.
 69. Casks furnished to be noted on weigh-note.
 70. Inspector to enter on books and weigh-note, the marks of casks repaired by him.
 71. To keep ashes delivered for inspection in a dry place; penalty for omission.
 72. May search vessels, and seize all ashes illegally shipped.
 73. To remove those seized to his store, &c., and to inspect them, &c.
 74. Auctioneer to sell them at auction.
 75. Penalty for receiving on board a vessel for exportation, ashes not inspected.
 76. Penalty upon inspector trading in ashes.
 77. Ashes, &c., in New-York, to be sold by weigh-note only; exception and penalty.
 78. Penalty for counterfeiting brand-marks, and for not cutting them out.
 79. Penalty for misdating invoice, &c.
 80. Inspectors in New-York and Albany may appoint assistants.
 81. Fees of inspectors.
 82. Inspectors allowed expenses of putting ashes in shipping condition; storage.

§ 61. No pot, or pearl, ashes shall be shipped for exportation from this state, except to the provinces of Upper and Lower Canada, or down the Susquehannah or Allegany rivers, unless they shall have been duly inspected and branded, according to the provisions of this

Ashes when to be inspected.

Article ; and all ashes shipped for exportation, contrary to this prohibition, shall be forfeited to the people of this state.²⁵ ART. 3.

§ 62. All pot and pearl ashes, duly inspected in any city or place of trade, on the Hudson river, above the city of New-York, or on the Erie canal, may be exported from the place of such inspection, or be sold in and exported from the city of New-York, without being subject to re-inspection.

§ 63. All pot and pearl ashes subject to such inspection, shall be put in casks of good seasoned white oak, or white ash timber, well made, hooped with substantial hoops, for the distance of, at least, ten inches from each end ; the staves not to be more, than thirty-one, nor less than thirty inches in length, and the head of a potash barrel shall not exceed twenty inches, nor be less than nineteen inches, in diameter ; and that of a pearlash barrel shall not exceed twenty-three inches, nor be less than twenty-one inches in diameter. No inspector shall brand casks not agreeing with the description given in this section.²⁶ Ashes how to be put up.

§ 64. It shall be the duty of every inspector of pot and pearl ashes, Duty of Inspector.

1. To empty the casks containing ashes brought to him for inspection, and to examine and determine the quality of the ashes, and re-pack the same, putting the ashes of each quality in a separate cask :

2. To brand, in plain letters, and figures on each cask containing ashes of the first quality, the words "First Sort;" of the second quality, the words "Second Sort;" and of the third quality, the words "Third Sort : " together with the words "Pot Ash" or "Pearl Ash," as the same may be ; also his own name, and that of the place where the ashes are inspected ; and on one head, the year when such inspection is made :

3. To weigh each cask, and to mark with a marking iron, on the branded head, the weight thereof, including tare, and the weight of the tare, under the same :

4. To collect the crustings or scrapings of the barrels and casks of potash, unfit for inspection, having the same brand, and to weigh and put the same in some suitable cask ; and to deliver to the owner or his agent, a weigh-note signed by him of such scrapings and crustings, entered on the back of the copy of the inspection bill, designating therein, the quantity taken, from each lot separately marked.

5. To brand the word "condemned" on every cask which he shall discover to contain ashes fraudulently adulterated with stone, sand, lime, or other improper substance :

6. To make and deliver to the owner or his agent, an invoice or weigh-note, under his hand, of the ashes by him inspected, containing the weight of each cask and of the tare, and distinguishing the

(25) This Article was compiled, with some amendments, from the following statutes : Laws of 1822, p. 160 ; 1827, p. 328. (26) Act of 14th November, 1828.

TITLE 2. quality thereof, in the manner before directed, and to enter the same, in a book, to be kept by him for that purpose :

7. To make and enter in his book another invoice or weigh-note, in which shall be contained the original private marks and numbers, and the scrapings and crustings in each lot, and the quality, weight and tare of each barrel, and specifying, as particularly as possible, the extent and damage appearing on such inspection, and the apparent cause thereof, whether by exposure or injury in the course of transportation, or in consequence of the original putting up of such ashes ; and to deliver, if required, a true copy of such weigh-note, to the owner of the ashes inspected, or his agent.

Penalty for violation of duty. § 65. If any inspector shall enter on any invoice, weigh-note or bill of inspection, any cask of ashes, before the same shall have been emptied out and the cask weighed, he shall be liable to a fine of five dollars for each cask so entered ; and also shall be guilty of a misdemeanor.

Weigh-note. § 66. Every weigh-note, or copy of a weigh-note, signed, or certified, by an inspector, on which there shall be endorsed a certificate, under the hand and seal of office of the clerk of the county where the inspector resides, showing that at the date of such weigh-note or copy, the subscriber was an inspector of pot and pearl ashes, and that the hand writing appears to be his, shall be received as presumptive evidence of the facts contained therein, in all courts and places in this state.

Defection in casks. § 67. If any cask, containing pot or pearl ashes, when delivered to an inspector for inspection, shall be defective and unfit for shipping, owing to the want of coopering repairs, the inspector shall put the cask in a good shipping condition, if the cost of such repairs shall not exceed the sum of seventy-five cents.

Fl. cask, when to be condemned, &c. § 68. If a defective cask cannot, in the opinion of the inspector, be sufficiently repaired for the sum of seventy-five cents, he shall condemn the same, and shall furnish a substantial new cask, for which he shall be allowed the actual cost, not exceeding one dollar and twenty-five cents, to be paid to him by the owner of the ashes inspected, or his agent.

Fl. entries to be made. § 69. Every cask so furnished shall be noted by the inspector in the weigh-note and copy thereof, in which he shall also specify the original marks and numbers of the cask for which such new cask is substituted.

Fl. § 70. The inspector shall also enter in his book, and on the margin of the weigh-note delivered by him, the original marks and numbers of every cask repaired by him, and the expense of such repairs.

§ 71. Every inspector shall keep all casks of ashes delivered to him for inspection, whilst they remain in his possession, in some dry place, safe from the injuries of the weather, and under a tight roof; and every inspector violating this provision, shall forfeit to the owner the sum of ten dollars for every cask of ashes injured by his neglect, besides the actual damages sustained by such owner.

ART. 3.
Ashes to be kept dry.
Penalty.

§ 72. Every inspector of pot and pearl ashes shall have full power, and it shall be his duty, to enter on board of any ship or vessel, within the limits of the city or county, for which he is appointed, which he shall suspect to have on board any ashes shipped for exportation contrary to law, and to search for, and if discovered, to seize and take into his possession, all casks of ashes so illegally shipped.

Powers and duties of inspector.

§ 73. Such inspector shall remove all casks so seized by him to his store or office of inspection, and shall there inspect the same according to the provisions of this Article, and shall deliver a weigh-note of such inspection, signed by him, to an auctioneer of the city or county in which the seizure shall be made.

§ 74. Such auctioneer shall proceed to advertise and sell such ashes by public auction, and shall pay the proceeds, deducting the customary expenses of sale, to such inspector, who, deducting therefrom his fees on inspection, and ten per cent. for his services and expenses, shall pay the balance to the treasurer of this state.

§ 75. Every owner, consignee, and master of a vessel, who shall receive on board of his vessel for exportation, contrary to law, any cask of ashes not inspected and branded according to the provisions of this Article, shall forfeit the sum of fifteen dollars for every cask so illegally shipped.

Penalty on owner, &c. of vessel.

§ 76. Every inspector who, during his continuance in office, shall directly or indirectly buy or sell any pot or pearl ashes, shall be guilty of a misdemeanor, punishable, on conviction, by a fine not exceeding five hundred dollars; and every inspector so convicted, shall be forever thereafter incapable of holding any office of honor or profit within this state.

Penalty on inspector.

§ 77. No pot or pearl ashes, nor any scrapings or crustings thereof, shall be bought or sold in the city and county of New-York, except by retail, in any other manner, than by the weigh-note of the inspector, who shall have inspected the same; and every person who shall violate the provisions of this section, shall forfeit, for each offence, the sum of one hundred dollars.

Prohibition
Penalty.

§ 78. Every person, who shall counterfeit any brand marks of an inspector of pot and pearl ashes, or who shall impress on any cask of such ashes, any brand marks that he shall know to be counterfeit, shall forfeit the sum of five hundred dollars; and every person, who

Penalty for counterfeiting brand, &c.

TITLE 2 shall empty any cask of such ashes branded by an inspector, without cutting out the brand-marks, in order to put therein any pot or pearl ashes for sale or exportation, shall forfeit, for each offence, the sum of two hundred dollars.

For misdat-
ing invoices,
&c.

§ 79. Every inspector, who shall date any invoice, weigh-note, or bill of inspection, different from the time when the article was actually inspected, or shall deliver out of his possession, any such invoice, weigh-note, or bill, without any date, shall, upon conviction, for every such offence, forfeit his office, and be liable to a fine of five hundred dollars.

Assistants.

§ 80. The inspectors of pot and pearl ashes, in each of the cities of New-York and Albany, may appoint as many assistants as they shall deem necessary, who shall take the oath of office prescribed in the constitution, before executing any duties under such appointment; and for whose acts and omissions their principal shall be responsible.

Compensa-
tion.

§ 81. Every inspector shall be entitled to receive the following fees, on the delivery of the copy of the inspection bill, and the weigh-note of the scrapings :

1. For every hundred pounds of ashes inspected by him, making the proper weigh-notes and entries, emptying and inspecting the ashes, and putting the casks, in the same condition, as when brought to him for inspection, ten cents, one half to be paid by the buyer, and one half by the seller :

2. For every good hoop furnished by him for a cask defective, when brought for inspection, four cents : and for every good head, so furnished, fourteen cents, to be paid by the seller ; but no charge, for such repairs on a single cask, shall exceed seventy-five cents :

3. For procuring the proper certificate of a county clerk, on every weigh-note, or copy of a weigh-note, delivered by him, twenty-five cents :

4. For all ashes condemned by him as adulterated, the same fees as if the ashes had proved good, to be paid by the person offering such ashes for inspection.

Extra allow-
ances.

§ 82. Every inspector shall also be allowed the actual expenses for putting in good shipping condition, after inspection, all casks of ashes inspected by him, which expenses shall be paid by the buyer ; he may also charge storage, at the usual rates, on every cask inspected by him, that shall remain in his possession more than ten days, after it shall have been inspected, and the weigh-note of the inspector shall have been made out.

ARTICLE FOURTH.

ART. 4.

Of the Inspection of Fish.

- § 83. Certain fish not to be exported, &c. unless inspected, &c.
 84. Inspectors to provide stores and yards for storing ; when to charge for same.
 85. Inspector in Jefferson county may appoint deputies.
 86, 87, & 88. Barrels for packing fish, how to be made.
 89. How much salt to be put in each barrel for exportation ; barrel to be branded.
 90. Inspector to brand merchantable fish ; to destroy unsound fish, &c.
 91. If part of fish sound and part unsound, to separate them and re-pack barrel, &c.
 92. Weight of barrels and half-barrels of salmon trout ; weight to be branded on head
 93. Shad how to be packed and branded.
 94. Certain inspected fish may be shipped from New-York without re-examination.
 95. Fish caught in Jefferson, to be inspected before removed from shore where caught
 96. Quantity of salt for fish put up in that county ; barrel how branded.
 97. Penalty for removing or selling fish in that county before inspected.
 98. Inspector in that county may seize fish removed contrary to this Article.
 99. If such fish be not packed, &c. within 48 hours after seizure, to be sold.
 100. Penalty for intermixing or shifting fish after inspection ; other penalties.
 101. Penalty for exporting, &c. fish not inspected.
 102. Fees of inspectors.
 103. Inspectors allowed a reasonable compensation for cooerage, &c.
 104. This Article not to apply to fish packed in foreign country, or in another state.

§ 83. No pickled, or dry-salted, fish, shall be exported from this state to a foreign market, put up in barrels or half-barrels, unless it shall have been inspected and branded agreeably to the provisions of this Article.²⁶ Fish when to be inspected.

§ 84. Every inspector of fish shall provide himself with good and sufficient stores and yards, capable of receiving and storing such fish as shall be brought to him for inspection, and in such places, as shall be most convenient for his employers ; but he shall make no charge for the storage of fish inspected by him, if it shall be removed within three days after notice given of such inspection. Store and yard.

§ 85. The inspector of fish for the county of Jefferson, may appoint one or more deputies, for whose conduct he shall be responsible. Jefferson county.

§ 86. Every barrel or half-barrel, in which pickled fish shall be packed for inspection, shall be made of well seasoned, white, red, black or rock oak, white ash, or white pine timber. Barrels how made.

§ 87. Except in the county of Jefferson, every such barrel or half barrel shall have twelve good hoops, and be perfectly tight ; the length of a stave for a barrel shall be twenty-eight inches, and the distance, between the chimes, not less than twenty-six inches, and the diameter of the head, from stave to stave, sixteen and an half inches ; the staves for every half-barrel shall be twenty-four inches long, and the diameter of the head be thirteen inches.

§ 88. In the county of Jefferson, every such barrel or half-barrel shall be perfectly tight, and have ten good hoops ; the length of a stave for a barrel shall be twenty-seven inches, the distance, between ib. Jefferson county.

(26) This Article was compiled, with some alterations, from the following statutes : 2 R. L. 330 ; Laws of 1822, p. 270 ; and Laws of 1825, p. 268.

TITLE 2. the chimes, not less than twenty-five inches, and the diameter of the head, from stave to stave, not less than sixteen inches; and the diameter of a half-barrel shall be in the same proportion.

Fish to be salted and branded.

§ 89. It shall be the duty of every person who shall put up or barrel any fish for exportation, except in the county of Jefferson, to put one bushel of good salt into each barrel of fish so put up, and to brand the same with the name of the fish contained therein, and with the initials of his own christian and surnames, and the name of the place where the fish shall be put up.

Proceedings of inspector.

§ 90. Every inspector, to whom fish shall be brought for inspection, shall open one of the heads of the barrel in which it shall be contained, and if the fish be sound and merchantable, and there shall be a sufficient quantity of salt for its preservation, he shall brand his name, and the place of his residence, on the head of such barrel; if the fish be unsound, the inspector shall destroy it. If the barrel be not full, or do not contain a sufficient quantity of salt, the inspector shall fill it with sound and merchantable fish, or add a sufficient quantity of salt, as the case shall require.

lb.

§ 91. If it shall appear to the inspector, that a part of the fish so examined by him is unsound, and a part sound, he shall separate the sound from the unsound, and re-pack, fill up, salt, inspect, and brand the barrel, in the manner directed in the preceding section.

Weight of salmon.

§ 92. Every barrel of salmon, or salmon-trout, inspected, shall contain two hundred pounds weight, and every half-barrel, one hundred pounds weight; and on one of the heads of every such barrel or half-barrel, the weight of the fish contained therein, shall be marked or branded by the inspector.

Shad.

§ 93. Shad offered for inspection shall be packed in barrels and half-barrels of the size and quality of those in which beef and pork are required, by law, to be packed, and shall be re-packed, inspected and branded in the same manner as salmon.

Fish in Suffolk, &c.

§ 94. All fish duly inspected in the counties of Suffolk, Queens and Kings, may be shipped and exported from the city of New-York, without being subject to re-examination.

Fish in Jefferson county how inspected, &c.

§ 95. All fish caught in the county of Jefferson, and packed for sale, shall be inspected and branded by the inspector of that county, or one of his deputies, before they shall be shipped or removed from the shore, on which the seine is hauled, in the bay or other place where they shall be caught; but if the fish shall be hauled up on an island, where it would be difficult to have them inspected, they may be removed to the nearest place of inspection in the county.

§ 96. Every barrel of fish put up in the same county, and branded as "pickled fish," shall contain three pecks of good salt, and every such barrel, branded as "corned fish," shall contain twelve quarts of good salt; and the inspector shall mark the quality of the fish inspected, by branding the number 1, 2, or 3, on the head of the barrel containing it. ART. 4.
ib.

§ 97. Every person in the same county, who shall remove, or assist in removing, from the place where they ought to be inspected, or sell or offer to sell any fish, not packed and inspected, according to the provisions of this Article, (other than such as are intended to be used as fresh fish, or for family use;) and every person who shall receive on board any vessel or boat, or in any wagon or other vehicle, any such fish, with intent to aid in preventing its inspection, shall forfeit, for each offence, the sum of twenty-five dollars.

§ 98. It shall be the duty of the inspector of fish, in the county of Jefferson, and of his deputies, to seize and take into safe keeping, any salt fish, that shall be shipped, or otherwise removed, from the place where they ought to have been inspected, contrary to the provisions of this Article.

§ 99. If within forty-eight hours after such seizure and detention, the owner or person having the charge of such fish, shall not cause the same to be packed, inspected and branded, and shall not pay the reasonable charges of such seizure and detention, the inspector or deputy making the seizure, shall advertise and sell the fish at public auction, within thirty days thereafter, and shall pay the proceeds of such sale, deducting ten per cent. for his trouble and expenses, to the county treasurer, for the use of the county; and for the recovery of such proceeds, if not duly paid, the treasurer may maintain an action in his name of office.

§ 100. Every person who, with intent to defeat the provisions of this Article, shall intermix, take out or shift any fish, in any barrel or cask inspected and branded, or put into any such barrel or cask, any other fish, for sale or exportation, or deface or change the mark or brand of any inspector, shall, for each offence, forfeit the sum of twenty-five dollars. Penalty.

§ 101. Every person who, contrary to the provisions of this Article, shall export to any foreign port, or offer to sell for such exportation, any fish not duly inspected, shall forfeit a sum equal to the full value of the fish, so exported or offered for sale.

§ 102. Every inspector of fish shall be allowed the following fees, to be paid, by the owner, or person having charge of the fish offered for inspection:

TITLE 2

1. For every barrel of pickled fish, by him inspected and re-packed, thirty-seven and a half cents, and nineteen cents for every half-barrel :

2. For every barrel and half-barrel of pickled fish, by him inspected, and not re-packed, twelve and a half cents :

3. For every barrel and half-barrel of dry-salted fish, by him inspected, twelve and a half cents :

4. For every tierce of salmon, inspected by him, fifty cents ; and for every keg, twelve and a half cents ; and the same fees shall be allowed for fish condemned by the inspector, as for fish inspected, re-packed and branded.

Extra compensation.

§ 103. Every inspector shall also be allowed a reasonable compensation for his expenses and trouble for necessary cooperage, for filling up with sound and merchantable fish, for adding salt, and for destroying unsound fish ; and the compensation and fees of the inspector shall, in all cases, be a lien on the fish inspected.

Limitation.

§ 104. The provisions of this Article shall not be construed to apply to fish put up and packed in foreign countries, and imported into this state ; or put up and packed in any other state agreeably to the laws of such state.

ARTICLE FIFTH.

Of the Inspection of Fish or Liver Oil.

Sec. 105. Fish oil, in New-York, and certain other places, required to be inspected

106. Duty of inspectors of fish oil.

107. Persons holding fish oil, to put it in a convenient place for inspection.

108. Penalty for counterfeiting brands ; and other penalties.

109. Powers of inspectors in New-York and Troy.

110. Fees of inspectors.

111. All oils, except fish or liver oil, exempt from inspection under this Article.

Liver oil to be inspected.

§ 105. No liver oil, commonly called fish oil, shall be bought, sold or bartered in, or in any manner shipped, exported or conveyed from, the cities of New-York, Albany, and Troy, and the villages of Brooklyn, Lansingburgh and Waterford, unless it shall have been inspected, gauged and branded, agreeably to the provisions of this Article.²⁷

Duty of inspector.

§ 106. It shall be the duty of each inspector of fish oil,

1. To gauge and inspect any quantity of fish oil, whenever required ; and to make search for fish oil within his district, and to inspect and gauge the same :

2. To brand on each cask so inspected and gauged, the whole number of gallons it shall gauge, the quantity of water, the quantity of sediment, and the quantity of pure oil therein ; together with his own name, and the name of the place for which he was appointed :

3. To make, subscribe, and deliver to the owner or holder of the oil, a certificate exhibiting, in separate columns, the quantity of each

(27) This Article is a revision of the following statutes : Laws of 1818, p. 54 ; 1822, p. 8.

of the before mentioned ingredients, contained in the whole parcel of oil inspected. ART. 6.

§ 107. It shall be the duty of all persons holding fish oil, to put the same in a convenient position for gauging or inspecting, whenever required by the proper inspector. Duty of person offering oil.

§ 108. Every person who shall counterfeit or alter the brands made by an inspector : or who shall mix, or in any manner adulterate any cask of oil, after it shall have been branded ; or who shall buy, sell, or barter any oil subject to inspection, which has not been inspected in any place in which an inspector is authorised to act ; or who shall convey, or cause to be conveyed from such place, any such oil which has not been inspected ; or who, upon emptying any cask of fish oil, shall not immediately efface the inspector's brands ; shall forfeit the sum of twenty-five dollars for each offence. Penalty for counterfeiting brands.

§ 109. The powers of the inspector of fish oil for the city of New-York, shall extend to and include the village of Brooklyn ; and those of the inspector for the city of Troy, shall extend to and include the villages of Lansingburgh and Waterford. Powers of inspectors.

§ 110. Every inspector for gauging, inspecting, branding, and certifying the contents of each cask of oil inspected by him, shall be entitled to receive twenty cents from the owner or holder of such oil, who may charge one half of the fees paid by him to any subsequent purchaser. Fees of inspector.

§ 111. All other oils than liver oil, commonly called fish oil, shall be exempt from inspection under the provisions of this Article. Certain oils exempt.

ARTICLE SIXTH.

Of the Inspection of Lumber.

- Sec. 112. Lumber not to be exported by sea, until inspected.
- 113. How lumber to be measured ; what deduction to be made ; bills to be rendered.
- 114. Inspectors to mark number of feet on lumber.
- 115. Contents of mahogany how stated in bill of return.
- 116. Penalty for shipping lumber without inspection.
- 117. Penalty for shipping cypress shingles without inspection and not of a certain size.
- 118. Penalty for inspecting lumber without authority ; powers of certain inspectors.
- 119. Inspectors not to employ deputies ; not to trade in lumber.
- 120. Fees of inspectors.
- 121. When inspector to be paid according to agreement with his employer.
- 122. All shingles offered for sale in this state, may be inspected.
- 123. Bundles of shingles so inspected how to be branded, &c.
- 124. Duty of the owner of shingles so presented for inspection.
- 125. What shingles to pass inspection ; not to be subjected to re-inspection.
- 126. Penalty on inspectors, deputies, &c. for fraud or neglect, &c.
- 127. Fees for inspecting and branding such shingles.

§ 112. No timber, plank, boards, scantling, or cypress shingles, shall be exported by sea from this state, to any port out of the territorial limits of the United States, that shall not have been duly in- Timber, plank, &c. to be inspected.

TITLE 2 *s*pected by an inspector of lumber, according to the provisions of this Article.²⁸

How measured.

§ 113. The inspectors of lumber shall measure the entire contents, without any deduction, of raft timber and spars; except in cases where by express agreement, they are required both to measure and inspect; in which cases there shall be no other deduction made, than what, in their judgment, is the exact quantity of unsound timber contained therein. They shall render to their employers, bills of the lumber inspected, stating the number of feet contained therein, and whether the same has been measured only, or both measured and inspected; and if inspected, they may make and state four qualities, if in their opinion it becomes necessary.

How marked.

§ 114. The inspectors shall mark with a marking iron, on all timber by them inspected, except mahogany, red cedar and live oak, the number of feet contained therein, either in cubic or superficial measure; the number of feet in mahogany, red cedar and live oak timber, shall be expressed in their bills, severally annexed to the number of each log; and all raft timber shall be numbered, and the bills made in like manner.

Mahogany or square timber.

§ 115. The inspectors, when employed to measure or inspect mahogany logs or square timber, shall set forth in the bill or return of such measurement, together with the number and contents in feet, the length, width and thickness of each log or square piece so measured.

Penalty for shipping un-inspected lumber.

§ 116. Every person who shall ship on board of any vessel, for exportation to any foreign port, contrary to the provisions of this Article, any lumber that has not been inspected by an inspector, shall forfeit for every thousand feet superficial measure so shipped, the sum of two dollars and fifty cents.

lb. Cypress shingles.

§ 117. Every person who shall ship on board of any vessel, for exportation to any foreign market out of this state, any cypress shingles which have not been inspected by an inspector, and which shall not be at least twenty-two inches in length, three inches and one half of an inch in breadth, and three-eighths of an inch thick, shall forfeit the sum of two dollars for every thousand shingles so shipped.

lb. For inspecting without authority.

§ 118. Every person, not appointed and authorised as an inspector, who shall measure or inspect any lumber or cypress shingles, in any place for which an inspector is appointed, shall forfeit to the inspectors of lumber, in such place, the sum of ten dollars, for every such offence. But the inspectors residing in Troy, may inspect at Gibbonsville or West Troy, in the county of Albany; and the in-

(28) This Article, except the last six sections, is a revision of the following statutes: 1 R. L. 287; Laws of 1819, p. 47; Laws of 1822, p. 241.

inspectors of Albany may inspect at Bath and Greenbush, in the county of Rensselaer. ART. 6.

§ 119. No inspector of lumber shall employ any deputy, to inspect in his name; and every inspector who shall, directly or indirectly, buy or sell any lumber or cypress shingles, except for his own use, shall be deemed guilty of a misdemeanor, and on conviction, shall forfeit his office. Prohibition.

§ 120. Every inspector of lumber shall be entitled to receive the following fees, to be paid, one-half by the buyer, and one-half by the seller: Fees of inspector.

1. For every ton of forty cubic feet of raft timber, measured and inspected, eight cents; and if measured only, five cents:
2. For every thousand feet, superficial measure, of boards and plank, thirty-seven and a half cents, if inspected; but if measured only, twenty-five cents:
3. For every thousand feet, inch measure, of beams and scantling, twenty-five cents:
4. For every thousand feet, superficial measure, of mahogany, one dollar:
5. For every thousand cypress shingles inspected, eighteen cents.

§ 121. In all cases where, from the character of the lumber, the fees of the inspector cannot be calculated under the preceding section, he may receive such compensation as his employer shall consent to pay, provided he make known to such employer, the fees actually allowed in this Article. Fees.

§ 122. All shingles offered for sale in this state, may be inspected by the inspectors of lumber. Shingles sold in this state.²⁹

§ 123. Each bundle of shingles so inspected, shall be branded across the butts or sides, as follows: No. 1, No. 2, No. 3, No. 4, or with the letter R, or with the letter O, together with the name of the inspector, and the name of the place where inspected: Bundles to be branded.

No. 1 shall be at least eighteen inches long, four inches wide, half an inch thick at the butt, straight rifted, and full breasted:

No. 2 shall be at least eighteen inches long, seven-sixteenths of an inch thick at the butt, four inches wide, straight rifted, and full breasted:

No. 3 shall be at least seventeen inches long, average four inches wide, and none shall be less than three inches wide, three eighths of an inch thick at the butt, straight rifted, and shall hold their width three-fourths of the way to the thin end, and be well shaved:

No. 4 shall be at least fifteen inches long, average four inches wide, and none shall be less than three inches wide, three-eighths of

TITLE 2. an inch thick at the butt, straight risted, and shall hold their width three-fourths of the way to the thin end, and be well shaved :

All shall be made of good stuff and free from imperfections, shall be cut square across the butts, and shall be packed in good and sufficient bands of hard wood, and well secured by wedges :

Refuse shingles shall be branded R, and shall consist of all such as will not pass inspection for either of the other classes, unless they shall be so bad as not to be worth half the price of No. 1, in the estimation of the inspector, in which case they shall be branded O.²⁹

Duty of owners of shingles.

§ 124. It shall be the duty of the owner of shingles presented for inspection, or his agent, to place such shingles as are required to be inspected, in such a situation as that the bundles may be conveniently examined by the inspector or his assistants.²⁹

How to be packed.

§ 125. No quality of shingles shall pass inspection unless so packed as to contain by admeasurement, either one-quarter thousand, one-half thousand, or three-quarters of a thousand in each square bundle. Shingles inspected under the preceding provisions shall not be subjected to re-inspection in this state.³⁰

Penalty.

§ 126. If any inspector, his deputy, or assistants, shall be guilty of any fraud or neglect in the inspection of shingles, contrary to the true intent and meaning of the preceding provisions, or shall brand or mark any shingles which he has not inspected, he shall forfeit and pay for each bundle so falsely branded or marked, one dollar, to be sued for and recovered by the person or persons injured thereby.³⁰

Fees.

§ 127. The inspector shall be allowed for his fees for inspecting and branding at the rate of twelve cents per thousand for all shingles he shall so inspect, one-half to be paid by the buyer, the other half by the seller, but in no case shall the inspector be the purchaser.³⁰

ARTICLE SEVENTH.

Of the Inspection and Culling of Staves and Heading.

- SEC. 128. No staves or heading to be exported without inspection.
 129. What staves to be culled as merchantable.
 130. Inspector-general to superintend cullers in his county ; he may remove them.
 181. Cullers in New-York and Albany to make monthly returns to inspector-general.
 182. Disputes respecting culling of staves, &c. how to be determined.
 133. Fees of inspector-general ; by whom paid.
 134. Fees of cullers in New-York and Albany.
 135. Fees of cullers in other cities and counties.
 136. Inspector-general of New-York to have power to search vessels, &c.
 137 & 138. Cullers in other counties to apply to a justice for a warrant to search vessels.
 139. Cullers may seize staves or heading shipped contrary to law, and detain them.
 140. Penalty for shipping staves or heading contrary to this Article.
 141. Inspectors-general and cullers in New-York and Albany, not to trade in staves, &c.
 142. Inspectors-general to furnish cullers a copy of this Article, and of future laws.
 143. Inspectors-general to make annual report to governor.

§ 128. No staves or heading shall be exported by sea from this state, to any port out of the territorial limits of the United States, unless they shall be inspected and culled, in the manner herein after provided, and on such inspection shall be declared merchantable.³¹

ART. 7.
Staves and heading to be inspected.

§ 129. All staves and heading, intended for such exportation, shall be inspected, by an inspector-general or culler of staves and heading, at the port whence they are to be shipped, and none shall be culled as merchantable, on such inspection, unless they shall be of the following description :

Manner of inspection.

1. All butt staves shall be made of good white oak timber, and shall be of the following dimensions : the long butts shall be five feet six inches long, the short butts four feet six inches long, and both at least five inches broad when dressed, clear of sap, two inches thick on the thinnest edge, and not more than two and an half inches thick, in any place, and shall be regularly split with the grain of the wood, and free from twist, and be otherwise good and sufficient :

Butt staves.

2. All pipe staves shall be made of good white oak timber, and shall be four feet six inches long, and shall work three inches broad when dressed, clear of sap, and shall be three quarters of an inch thick on the thin edge, regularly split with the grain of the wood, and shall not have more than six worm holes, and be otherwise good and sufficient :

Pipe staves.

3. All white oak hogshead staves shall be made of good timber, and shall be three feet six inches long, and shall work three inches broad when dressed, clear of sap, and shall be three quarters of an inch thick on the thin edge, regularly split with the grain of the wood, and shall not have more than four worm-holes, and shall be otherwise good and sufficient :

Hogshead staves.

4. All barrel staves shall be made of good white oak timber, and shall be two feet eight inches long, and shall work three and a half inches broad when dressed, clear of sap, and shall be three quarters of an inch thick on the thin edge, regularly split with the grain of the wood, and shall not have more than four worm holes, and shall be otherwise good and sufficient :

Barrel staves.

5. All hogshead heading shall be made of good white oak timber, and shall be two feet eight inches long, and shall not be less than five inches broad, clear of sap, two thirds of which shall be fit for middle pieces, and shall not be less than three fourths of an inch thick on the thin edge, regularly split with the grain of the wood, and be otherwise good and sufficient :

Hogshead heading.

6. All red oak, or rock oak hogshead staves, shall be three feet six inches long, three and a half inches broad, including sap, or three

Hogshead staves.

(31) This Article is a revision of the following statutes : 2 R. L. 336 ; Laws of 1821, p. 23 ; 1822, p. 46 ; 1827, p. 246.

TITLE 2. inches broad clear of sap, and shall be three quarters of an inch thick on the thin edge.

Duty of inspector-general.

§ 130. Every inspector-general of staves and heading, shall superintend the cullers of staves and heading within the city and county for which he is appointed, and shall give them such instructions and directions, as he may deem necessary to carry into execution the laws prescribing their duties ; he may remove from office any such culler who, in his opinion, shall violate or neglect, or be incompetent to perform, his duties, and shall give immediate notice to the governor, of every vacancy that shall occur in the office of any culler, under his superintendence.

Duty of cullers.

§ 131. The cullers in the cities and counties of New-York and Albany, shall obey such instructions as from time to time they shall receive from the inspector-general, for the city and county for which they shall respectively be appointed, and each of them, as often as once in every month, shall make a return to such inspector-general, of the staves and heading culled by him, specifying the different times, and the names of the persons for whom they were culled.

Disputes, how decided.

§ 132. The inspectors-general shall have the sole power of determining all disputes that shall arise respecting the culling of staves and heading in the cities and counties for which they are appointed ; but in counties where there is no inspector-general, every dispute between the buyer and seller of staves and heading, respecting the culling thereof by the culler employed for that purpose, shall be submitted to two persons, one to be chosen by the buyer, and the other by the seller, who shall be associated with such culler, and their determination, or that of any two of them, shall be conclusive.

Inspector's fees.

§ 133. Each inspector-general shall be entitled to receive, on every thousand merchantable staves and heading, which shall be culled in the city and county for which he is appointed, ten cents, one half to be paid by the buyer, and the other half by the seller ; and for all such staves or heading as are culled out, and not merchantable, he shall be entitled to receive, from the proprietor thereof, the same compensation.

Culler's fees.

§ 134. The cullers in the city and county of New-York, and in the city and county of Albany, shall be entitled to receive, as a compensation for culling every thousand pipe staves, sixty cents ; for every thousand hogshead staves and heading, fifty cents ; for every thousand barrel staves, forty cents ; for every thousand long butt staves, one dollar and twenty cents ; for every thousand short butt staves, one dollar, and no more ; one half to be paid by the buyer, and the other half by the seller ; and for all such staves or heading as are culled out and not merchantable, they shall be entitled to receive

from the proprietor thereof the same compensation, in all cases : ten hundred staves or heading to a thousand, and no more. ART. 7.

§ 135. The cullers in the other cities and counties of this state, ^{lb.} shall be entitled to receive the following compensation, computing twelve hundred staves or heading to a thousand : For culling every thousand pipe staves, fifty cents ; for every thousand hogshead staves and heading, thirty-seven and an half cents ; for every thousand barrel staves, twenty-five cents ; for every thousand long butt staves, one dollar and twenty-five cents ; for every thousand short butt staves, one dollar : one half of which compensation shall be paid by the buyer, the other by the seller. For staves and heading that shall be culled out as not merchantable, the owner shall pay to the culler the price of culling merchantable staves and heading.

§ 136. The inspector-general for the city and county of New-York shall have full power, and it shall be his duty to enter on board of every ship or vessel within the limits of such city or county, which he shall suspect to have on board, shipped for exportation, any staves or heading not culled according to law, or condemned on culling as not merchantable, and to seize and cause to be re-landed, all such staves and heading that he shall discover on such search, and all such as he shall find to be sawed in two or more parts. The staves and heading so seized shall be forfeited, and be sold by the inspector-general ; and the proceeds thereof, deducting necessary expenses, shall be paid by him to the chamberlain of the city of New-York, for the use of the poor of that city. Powers and duties of inspector-general in New-York.

§ 137. It shall be the duty of every culler, in every county, except in the city and county of New-York, who shall suspect that any staves or heading not culled, or condemned on culling, have been shipped for exportation to a foreign market, on board of any vessel within the limits of the county for which he is appointed, to apply to some justice of the peace in the same county, and to make oath before him of such suspicion, and the causes thereof. lb. of cullers.

§ 138. The justice so applied to, if he shall deem the suspicion well founded, shall issue his warrant to such culler, authorising him to enter on board of any vessel within the limits of the county, and to search for and make discovery of any such staves or heading, shipped for exportation contrary to law. Proceedings.

§ 139. If such culler shall discover on board of any such vessel any staves or heading shipped for exportation contrary to law, he shall seize the same, and cause them to be re-landed, and shall detain them in his possession, until the owner thereof shall have paid the expense of such search and re-landing.

§ 140. Every person who shall ship for exportation, contrary to the provisions of this Article, any staves or heading, shall forfeit five Penalty on shipper.

TITLE 2.

dollars for every thousand of such staves and heading, so illegally shipped; and every master of a vessel shall forfeit two dollars and fifty cents for every thousand of staves and heading, that he shall take on board his vessel, to be exported contrary to law.

On inspectors and cullers.

§ 141. No inspector-general, or culler of staves and heading, in the city and county of New-York, or in the city and county of Albany, shall buy or sell, either on his own account, or as agent or dealer for any other person, any staves or heading whatever, under the penalty of fifty dollars for each offence; but this section shall not be construed to prevent an inspector-general, or culler, who shall be a cooper, and actually carrying on business as such, from buying staves and heading for the use of his trade.

Duty of inspector-gen'l.

§ 142. It shall be the duty of each inspector-general, to furnish to every culler under his superintendence, a copy of this Article, and of every future law that shall be passed, regulating the culling of staves and heading, within the city and county for which he is appointed.

1b. Annual report.

§ 143. Each inspector-general shall make an annual report to the governor, to be by him laid before the legislature, and in such report shall state what number of the respective kinds, of staves and heading, have been culled during the year for which the report is made, in the city and county for which he is appointed, and shall set forth whether any, and if any, what amendments ought to be made to the laws regulating the culling of staves and heading, within such city and county.

ARTICLE EIGHTH.

Of the Inspection of Flax-Seed.

SEC. 144. No flax-seed to be shipped from New-York without inspection.

145. Flax-seed for exportation to be put in casks; dimensions thereof.

146. Casks to be marked or branded.

147. Duty of inspectors.

148. Penalty for acting as inspector without authority.

149. Penalty for lading vessels with uninspected flax-seed, to export from New-York.

150. Inspectors may employ deputies.

151. No inspector or deputy to trade in flax-seed.

152. Fees of inspector.

153. To receive fees for measurement in certain cases.

Flax-seed to be inspected.

§ 144. No flax-seed shall be shipped for exportation, to any foreign market, from the city and county of New-York, unless it shall have been inspected, approved and branded, according to the provisions of this Article.³²

How put up.

§ 145. All flax-seed intended for such exportation, shall be put in good and strong casks; such casks shall be of two sizes, one size to contain not less than seven, and the other not less than three and a half bushels.

§ 146. Every such cask, when the flax-seed contained therein shall have been cleaned, shall be marked, or branded, with the initials of the christian name, and with the surname, at full length, of the person by whom the flax-seed was cleaned, and the name of the city or county where it was cleaned.

ART. 8.
Casks how
marked.

§ 147. It shall be the duty of the inspector of flax-seed,

Duty of in-
spector.

1. To examine all such casks of flax-seed, intended for exportation; and in such examination, to open at least one cask of every twenty he shall inspect, and as many more as he may think necessary :

2. To ascertain, by measurement, whether such casks contain the proper quantity of bushels and half bushels, and to bore every cask to ascertain the quality of the flax-seed therein :

3. To brand on every cask made, marked and branded according to the provisions of this Article, and containing the proper quantity of flax-seed, and on no others, the initials of his christian name, and his surname, at full length, together with the name of the city where inspected, on the quarter, and in a legible manner :

4. To brand on each cask of flax-seed of the first quality, the word "First;" on each cask of the second quality, the word "Second;" and on each cask of the third quality, the word "Third."

§ 148. Every person, not authorised by law, who shall exercise the duties of the inspector of flax-seed, shall forfeit to such inspector the sum of one hundred dollars, for each offence.

Penalty.

§ 149. Every person who shall lade, or attempt to lade, any vessel with flax-seed not inspected according to law, for the purpose of exporting the same from the city of New-York, to any foreign place, shall forfeit for every such cask, the sum of ten dollars.

Penalty.

§ 150. The inspector of flax-seed may employ one or more deputies, to inspect in his name, and for whose acts he shall be responsible.

Deputies.

§ 151. No inspector, or deputy-inspector, of flax-seed, during the time that he shall continue in office, shall be directly or indirectly engaged or interested in buying, selling, or cleaning flax-seed, either on his own account, or the account of other persons; and every inspector or deputy who shall violate this prohibition, shall forfeit, for each offence, the sum of five hundred dollars.

Prohibition.

§ 152. The inspector of flax-seed shall be entitled to receive for inspection, the following fees :

Fees of in-
spector.

1. For every cask of flax-seed of seven bushels, five cents :

2. For every cask of three and an half bushels, three cents :

Such fees shall be paid by the person offering the flax-seed for inspection, who may charge one half of the amount to the buyer, in addition to the price of the seed.

TITLE 2
 1b. § 153. If the inspector shall find, by measurement, that any cask inspected by him, does not contain the proper quantity of flax-seed, according to its size, he shall be entitled to receive from the person offering the flax-seed for inspection, fifty cents for such measurement, in addition to his regular fees for inspection.

ARTICLE NINTH.

Of the Inspection of Sole Leather.

- Sec.** 154. Inspector to inspect all sides of sole leather offered.
 155. He may inspect leather in any adjoining town, &c. where there is no inspector
 156. Inspector to provide himself with proper scales ; to stamp leather.
 157. He may make deduction from leather not dry.
 158. Fees of inspectors in New-York ; who to pay them.
 159. In what counties leather may be sold without inspection ; in what not.

Duty of inspector. § 154. It shall be the duty of each inspector of sole leather, whenever required, to inspect any sides of sole leather which shall be offered to him for that purpose, within the place or county for which he is appointed.³³

1b. § 155. Every such inspector may also inspect sole leather, in any other city, town or village of his county, than that for which he is appointed, or in any adjoining county, if there be no inspector appointed for such city, town or village, or in such adjoining county.

1b. Manner of inspection. § 156. It shall be the duty of each inspector to provide himself with proper scales and weights, to enable him to perform the duties of his office ; to weigh every side of sole leather that he shall inspect ; and to impress thereon in words at full length,

1. His own surname, and the name of the place for which he is an inspector :
2. The word " Best," if the leather be manufactured of good hides, and in the best manner :
3. The word " Good," if the leather be manufactured of good hides, in a merchantable manner :
4. The word " Damaged," if the leather be manufactured of damaged hides, in a merchantable manner :
5. The word " Bad," if the leather be not of one of the qualities above mentioned :
6. The weight of the side shall also be impressed thereon, either in figures, or in words at length.

1b. § 157. Every inspector may make such a deduction as he may judge reasonable, from the actual weight of every side of leather inspected by him, that shall not be perfectly dry ; and if any such side of leather shall afterwards dry away, so as to weigh five per cent. less than the weight marked thereon, the inspector shall make good to the purchaser, the loss resulting to him, from such deficiency in weight.

(33) This Article was compiled from the following statutes : 2 R. L. 341 ; Laws of 1825, p. 120 ; 1824, p. 364 ; 1825, p. 238 ; 1826, p. 99, 284.

§ 158. Every inspector of sole leather in the city and county of New-York, shall be entitled to receive two cents, and every such inspector in any other place or county, four cents, for each side of sole leather that he shall inspect, weigh and seal. The fees of the inspector shall, in the first instance, be paid by the seller; but the purchaser shall be liable to him for one-half of their amount.

ART. 10.
Fees for inspecting.

§ 159. In the counties of Onondaga, Herkimer, Ulster, Oneida, Jefferson, Madison, Seneca, and Montgomery, no manufacturer of, or dealer in, sole leather, shall be compelled to carry any sole leather owned or manufactured by him, to be inspected previous to a sale; but in every other county and place in this state, for which an inspector of sole leather is or shall be appointed, no sole leather shall be sold, unless it shall have been previously examined, weighed and sealed, by an inspector duly authorised; and every seller who shall violate this provision, shall forfeit the sum of five dollars for every side of sole leather so illegally sold.

Prohibitions in certain counties.

ARTICLE TENTH.

Of the Inspection of Hops.

Sec. 160. No hops to be exported without inspection; hops forfeited if shipped without it.

161. If inspected in Albany, may be exported without re-inspection.

162. Hops for exportation to be put up in bags; weight of bags.

163. Bags to be marked or stamped.

164. Powers and duties of inspectors.

165. Penalty for selling condemned hops for any other than condemned.

166. Penalty for intermixing improper substances with hops.

167. Penalty for receiving on board of a vessel uninspected hops.

168. Penalty for counterfeiting marks on bags.

169. Fees of inspectors.

§ 160. No hops shall be exported from this state, until they shall have been submitted to the examination of an inspector of hops, and have been inspected by him, agreeably to the provisions of this Article. All hops shipped for exportation, contrary to the provisions of this section, shall be forfeited.³⁴

Hops to be inspected.

§ 161. Hops inspected in the city of Albany, may be exported thence, or be sold in and exported from the city of New-York, without being subject to re-inspection in the city of New-York.

Provision as to Albany.

§ 162. All persons intending to export hops from this state, shall put the same in bags, which shall contain not more than four hundred pounds, nor less than one hundred and fifty pounds; and shall submit them, after the expiration of ten days from the time they shall have been bagged, to the examination of an inspector.

Hops to be put in bags.

§ 163. Every person who shall put up hops for sale or exportation, shall mark or stamp on each bag of hops, in a legible manner, the initials of his christian name, and his surname at full length, be-

Bags to be marked.

(34) This Article is a revision of the following statutes: Laws of 1819, p. 144; 1820, p. 197.

TITLE 2. fore the removal of such bag from the place where the hops shall be put up; and every person violating this provision, shall forfeit five dollars for every bag so removed without being marked or stamped.

Duty of inspector.

§ 164. Every inspector of hops shall have power, and it shall be his duty,

1. To provide himself with a sufficient store, in some place which may be convenient to his employers, for the purpose of storing hops brought to him for inspection :

2. To examine hops brought to him for inspection, upon satisfactory proof that they have been bagged for ten days, and not otherwise :

3. To put the hops in different bags, according to their quality, respectively, and on each bag containing hops of the first quality, to mark the words "Hops, first sort;" of the second quality, the words "Hops, second sort;" of the third quality, the words "Hops, third sort;" and of all other inferior quality of hops, "Refuse hops," together with his own name, and that of the place where the hops are inspected, and the date of such inspection, in words and letters at full length :

4. To weigh each bag of hops, and to mark thereon the total weight of the bag and its contents in pounds, and to deliver to the owner a weigh-note of such weight, stating therein the quality of the hops, and distinguishing them in the manner as before directed :

5. To mark the word "Condemned," on each bag of hops which he shall discover to be fraudulently mixed, with any foreign or improper substance :

6. To enter on board of every vessel within the limits of the city and county where he is authorised to inspect, to search for hops shipped or shipping contrary to the provisions of this Article, and to seize and take into his possession all such hops discovered by him :

7. To sell at public auction all hops so seized, and to pay the proceeds of such sale, deducting expenses, and ten per cent. for his services, to the officers having the care of the poor of the city or county where the seizure shall be made, for the use of such poor.

Penalty.

§ 165. Every person who shall offer for sale, or sell any hops which have been condemned by an inspector, for any other than condemned hops, shall forfeit the sum of twenty-five dollars for every bag so offered for sale, or sold.

Ib.

§ 166. Every person who shall intermix with any hops any foreign or improper substances, or in any manner adulterate their quality, shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court by which he shall be tried.

Ib.

§ 167. Every master of a vessel who shall receive on board for exportation, any bags of hops, not inspected according to the provisions

of this Article, shall forfeit the sum of ten dollars for every bag so received by him. ART. II.

§ 168. Every person who shall counterfeit on any bag of hops, any of the marks of an inspector, or empty any bag of hops so marked, for the purpose of putting therein other hops for sale or exportation, without first erasing such marks, shall, for each offence, forfeit the sum of one hundred dollars.

§ 169. Every inspector of hops shall be entitled to receive ten cents for every hundred pounds of hops inspected by him, to be paid one half by the buyer, and one half by the seller ; and for every hundred pounds of condemned hops, he shall receive the same fees, to be paid by the person offering such hops for inspection. Fees of inspector.

ARTICLE ELEVENTH.

Of the Inspection of Distilled Spirits.

SEC. 170. Spirits distilled in U. States, exceeding 20 gallons, to be inspected in New-York.

171. Standard of domestic distilled spirits.

172. Hydrometers to be used in determining strength of spirits ; casks to be branded.

173. Penalty for adulterating spirits.

174. Penalty for altering proof of spirits after inspection, and for not cutting out marks.

175. Inspectors may appoint deputies.

176. Fees of inspectors in New-York, Albany, and Troy.

§ 170. No spirits distilled within the United States, and exceeding the quantity of twenty gallons, shall be sold in the city of New-York, unless they shall have been inspected, and the casks containing the same, branded according to the provisions of this Article ; and for every gallon sold contrary to the provisions of this section, the seller shall forfeit a sum equal to the value thereof.³⁵ Distilled spirits to be inspected.

§ 171. The standard of domestic distilled spirits shall be as follows : All such spirits, at the temperature of sixty degrees according to Fahrenheit's thermometer, and the specific gravity of which shall be 9335, as compared to the gravity of pure distilled water estimated at 10,000, shall be deemed first proof ; and the strength of any spirits below or above first proof, shall be calculated decimally, or by the percentage in reference to the above standard, and shall be denoted as so many per cent. below or above first proof as the actual difference in strength shall be. Standard.

§ 172. Every inspector to whom distilled spirits shall be brought for inspection, shall use in determining the strength thereof, such hydrometers as shall be graduated according to the standard established by this Article ; and on every cask of such spirits inspected by him, he shall brand in a distinct and legible manner, the proof thereof according to such standard ; and if such spirits be not first proof, the percentage thereof below or above first proof. Duty of inspector.

⁽³⁵⁾ This Article was compiled, with some variations, from the act of 1814 ; Laws of 1814, p. 155.

TITLE 2.
 Punishment
 for adulterat-
 ing.

§ 173. Every person who shall adulterate any distilled spirits, or spirits in a state of distillation, with any poisonous or unhealthy substance, and every person who shall sell such spirits, knowing them to be so adulterated, shall be guilty of a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court by which he shall be tried; the fine in no case to exceed one thousand dollars, nor the imprisonment the term of four years.

Ib. for alter-
 ing inspected
 spirits.

§ 174. Every person who shall fraudulently put any thing whatever into any cask of distilled spirits branded by an inspector, for the purpose of altering the real or apparent proof, or the bead or nature of the spirits contained therein; and every person who, without first obliterating the marks of the inspector, shall put in any such cask, after the same shall have been emptied, in whole or in part, of the spirits contained therein when inspected, any other spirits or spirituous liquor whatever; and every person who shall sell, or in any manner dispose of any such cask, when emptied, without effacing the marks of the inspector, shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment.

Deputies.

§ 175. Every inspector of distilled spirits may appoint one or more deputies, who shall act in his name, and for whose conduct he shall be responsible.

Fees of in-
 spectors.

§ 176. Every inspector of distilled spirits in the city of New-York, shall be entitled to receive six cents for each cask of spirits inspected by him, and every such inspector in the cities of Albany and Troy, shall be entitled to receive for the like service, twelve and a half cents.

ARTICLE TWELFTH.

Of the Inspection of Leaf Tobacco in the City of New-York.

Sec. 177. Inspector of leaf tobacco in city of New-York, to appoint one or more deputies.

178. Duties of such inspector.

179. Tobacco to be designated as of four qualities.

180. Fees of the inspector.

181. Persons counterfeiting marks, &c. deemed guilty of misdemeanor; penalty.

182. Penalties upon inspector and his deputies, for various acts of misconduct.

Inspector to
 appoint de-
 puties.

§ 177. It shall be the duty of the inspector of leaf tobacco in the city of New-York, to appoint one or more deputies under him, who, together with the said inspector, shall, before entering upon the duties of his or their office, take and subscribe the oath required by the constitution.³⁶

Duty of in-
 spector

§ 178. The said inspector, either in person or by his deputy, shall, when called on for that purpose by the owner or consignee of any leaf tobacco, at all seasonable hours of the day, immediately proceed to any ware-house, or to any of the wharves in the city of New-York, where he may be required for the purpose of inspecting any leaf to-

(36) Act of the 19th of April, 1828, p. 348, Chap. 274.

bacco in casks ; whereupon he shall proceed to uncase and break each and every cask ; and it shall be his duty to break up each cask in three different places, to wit : in the centre, and at the distance of not less than ten inches from each end, and oftener, if in his opinion the case may require, in order to a full and fair examination of the quality of the tobacco ; and it shall be his duty to draw from each place where any cask may have been so broken, a sample of not less than four heads of the said tobacco, which he shall label and mark with a corresponding number and mark which he may put on to each cask, of which sample, so marked and numbered, he shall leave the one half with the owner or consignee of such tobacco, and the other half he shall carefully preserve for the examination of any person or persons who may desire so to do, until such tobacco shall have been either exported, or sold for consumption ; and after a full and fair examination of each cask, the said inspector shall ascertain the actual tare of each cask, and shall cause the same to be carefully coopered and put in good order, and shall cause the same to be weighed, and in a legible manner, with a marking iron, shall mark on each head of such cask, the gross weight of such cask of tobacco, with the actual tare or weight of the package, and shall at the same time brand with a branding iron, the name, in full, of such inspector, with the month and year in which such tobacco was by him so inspected, together with the quality of tobacco contained therein, and deliver to the owner or consignee, a note or weigh-bill, designating the number, weight and quality of each cask by him so inspected, and the date thereof.³⁷

ART. 12.

§ 179. There shall be designated four qualities of leaf tobacco, and no more, and they shall be known and distinguished as follows : first, second, and third quality, and refuse or damaged, with some one of which it shall be the duty of the said inspector, as in his judgment the case may require, to mark all tobacco submitted to his inspecting, and also the samples which he may draw from the several casks.³⁷

Four qualities of tobacco.

§ 180. As a compensation for his services for inspecting, marking, weighing and delivering such note or weigh-bill as aforesaid, and for retaining, preserving and exhibiting at all times such samples as he may retain of such tobacco by him so as aforesaid inspected, it shall and may be lawful for such inspector to charge at and after the rate of fifty cents for each and every cask by him so inspected, over and above the actual cost of cooperage and labor in setting up and preparing such tobacco for inspection.³⁷

Inspector's fees.

§ 181. If any person or persons shall forge, alter or counterfeit, or attempt to forge, alter or counterfeit any marks or numbers which may, by such inspection, be put on any cask of tobacco as aforesaid, or if any person shall fraudulently change or re-pack any tobacco so

Penalties for counterfeiting marks, &c.

(37) Act of the 19th of April, 1828, p. 348, chap. 374.

TITLE 2. inspected as aforesaid, from one cask into another cask, with the intent to defraud, or impose one quality of tobacco for another quality; or shall fraudulently or with intent to deceive, remove any stave or heading whereon such inspector may have put such marks and numbers as aforesaid; or shall forge, change or alter in any manner, any such weigh-note, or the marks and numbers which such inspector shall have attached to any samples which he may have drawn for exhibition; such person or persons so offending, shall, on conviction thereof before any court having cognizance thereof, be deemed guilty of a misdemeanor, and may be fined or imprisoned, or both, at the discretion of such court.³⁸

Penalties on inspector and deputies. § 182. If any such inspector or any of his deputies, shall falsely or fraudulently mark any tobacco submitted to him or them for inspection, or shall make and deliver any false or fraudulent weigh-bill or note of any tobacco by him or them so inspected, such inspector or deputy shall, on conviction thereof before any court having jurisdiction thereof, be deemed guilty of a misdemeanor, and may be fined, or imprisoned, or both, at the discretion of such court: and further, if any inspector or his deputy shall unreasonably refuse or neglect to do the duties of his office, such inspector or deputy, on conviction thereof, shall be liable to treble damages of any person aggrieved thereby, who may sue for the same in his own name and for his own use.³⁸

ARTICLE THIRTEENTH.

General Provisions.

- Sec. 183, 184, & 185. Unclaimed articles stored with an inspector, when to be sold, &c.
 186. Inspectors to account annually to comptroller for articles so sold.
 187. Every such report to be accompanied by an affidavit; contents thereof.
 188. If no such sales within a year, inspector to transmit affidavit to comptroller.
 189. Penalty for neglecting to make such report or affidavit; district attorney to sue.
 190. Penalty for unnecessary delay, in inspecting articles offered for inspection.
 191. Penalty for fraud in discharge of duties by inspector.
 192. Penalty for obstructing inspectors in executing their duties.
 193. Penalty for counterfeiting, &c. brands or marks of inspectors.
 194. Penalty for counterfeiting marks, &c. upon hogsheads, &c.
 195. Penalties in this Title by whom prosecuted for, and how appropriated.
 196. Penalties incurred by inspectors prosecuted by district attorneys, how applied.
 197. Inspectors to report annually to legislature.
 198. Penalty for not complying with preceding section.
 199. Meaning of term "inspector."

Articles not claimed.

§ 183. If any articles subject to inspection, and stored with an inspector, shall not be claimed by the owner within one year from the time they shall have been inspected, such inspector shall deliver to an auctioneer in the city or county in which he shall reside, an invoice or bill of such articles, specifying the quantity and quality, and the brands or other marks thereon, and also the name and residence of the owner, and of the person delivering the same for inspection, according to his information or belief.³⁹

(38) Act of the 19th of April, 1828, p. 348, chap. 274. (39) Laws of 1822, p. 164, § 17; 1819, p. 147, § 12.

§ 184. Such auctioneer shall sell such articles at public auction, and shall cause an advertisement of the sale to be inserted for at least six weeks in succession immediately previous thereto, in the state paper, and in a newspaper printed in the city or county of his residence. He shall state in the advertisement the time and place of sale, and the quantity, quality, and marks of the articles to be sold, and the names of the owner and his agent, according to the bill delivered to him.⁴⁰

ART. 3.
To be sold at auction.

§ 185. If, before the day of sale, the owner shall not claim such articles, and pay the legal fees and charges thereon, the auctioneer shall complete the sale, and render an account thereof, to the comptroller, and pay the proceeds to the treasurer of this state, deducting the customary charges and expenses of the sale, and the legal fees and charges of the inspector, which shall be paid by such auctioneer. The monies paid into the treasury shall remain therein for the benefit of the owner, and be paid to him on his furnishing to the comptroller satisfactory evidence of his right.⁴⁰

Account of sale to be rendered.

§ 186. Every inspector shall annually on the first day of January, transmit on oath to the comptroller, a duplicate of every invoice or bill of such articles, which, during the preceding year, may have been delivered to any auctioneer, and the amount received by him on the sales of any such articles, from any auctioneer.

Inspector to report.

§ 187. Every such report of an inspector of pot and pearl ashes shall be accompanied by an oath or affirmation taken and subscribed before some proper officer, that he has delivered to some auctioneer of the city or county, (mentioning his name) an invoice, weigh-note, or bill of inspection of all the unclaimed ashes which had been in his hands one year or more, and that he has duly accounted with the owner or agent for all the ashes delivered to his care for inspection, as the law directs, and that he has not by himself or by any person in his employ, made out any invoice, weigh-note, or bill of inspection, of a later date than the time such ashes were duly inspected, and that the same were emptied out of the cask or casks, and duly examined, at the date of every such invoice, weigh-note, or bill of inspection.

Report to be accompanied by oath.

§ 188. If no such invoice or bill shall have been delivered to any auctioneer during the preceding year, by any such inspector, he shall, notwithstanding, transmit to the comptroller, on the first day of January in each year, an affidavit, stating that there have been no articles subject to inspection stored with him, which have remained not claimed by the owner, within one year from the time they shall have been inspected.

Affidavit required.

§ 189. Every inspector who shall neglect to make any report or affidavit required in either of the three last sections, shall be deemed

Penalty for neglect.

(40) Laws of 1822, p. 164, § 17; 1819, p. 147, § 12.

TITLE 2. guilty of a misdemeanor, punishable by a fine not exceeding twenty-five hundred dollars, and by imprisonment not exceeding one year; and the comptroller shall direct the district attorney of the county where such inspector resides, to prosecute for such offence.⁴⁰

Penalty for
delaying to
inspect.

§ 190. Every inspector, who shall be required to inspect any articles subject to his inspection, if not then engaged in the business of his office, shall proceed without delay to inspect the same; and for every three hours of unnecessary delay in such inspection, he shall forfeit to the person delayed, three dollars, in addition to the damages which such person shall actually sustain.

Punishment
for fraud.

§ 191. Every inspector guilty of any fraud, mal-practice, or connivance in the discharge of his duties, or who shall offer any fee or reward to any person in order to obtain the profits of inspecting articles subject to his inspection, shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court by which he shall be tried.

Opposing in-
spector, mis-
demeanor.

§ 192. Every person who shall oppose or obstruct, any inspector in the execution of his duties or powers, shall be guilty of a misdemeanor, punishable by fine and imprisonment.

Counterfeit-
ing brands.

§ 193. Every person who shall counterfeit, or fraudulently alter or deface the brands or other marks of an inspector, shall be guilty of a misdemeanor, punishable by fine and imprisonment, the fine not to exceed two thousand dollars, nor the imprisonment three years.

It.

§ 194. Every person who shall counterfeit, or fraudulently alter or deface, the brands or other marks put upon any hogshead, barrel or half-barrel, containing flour, meal, beef, pork, pot or pearl ashes, fish, fish oil, liver oil, or distilled spirits, by the owner thereof, shall be deemed guilty of a misdemeanor, punishable by fine not exceeding five hundred dollars, or by imprisonment not exceeding one year.

Penalties
how sued for.

§ 195. Every penalty imposed in each preceding Article of this Title; and not otherwise specially appropriated, except such as shall be incurred by inspectors, shall be prosecuted for, by any inspector, acting under the Article, the provisions of which shall be violated, whose powers extend to the place in which the offence shall be committed. The monies recovered, deducting such sum, not exceeding one half of the amount, as shall be allowed to the inspector prosecuting, for his expenses and trouble, by the court in which the recovery or conviction shall be had, shall be paid to the chamberlain or treasurer of the city, or treasurer of the county, in which the offence shall be committed, for the use of the poor of such city or county.

It.

§ 196. Every such penalty which shall be incurred by an inspector, shall be prosecuted for by the district attorney of the county in

which such inspector shall reside ; and the monies recovered, deducting a reasonable counsel fee to the district attorney, to be settled by the court in which the recovery or conviction shall be had, shall be paid and applied in the manner specified in the last preceding section. TITLE 3.

§ 197. Every inspector acting under any Article of this Title, shall report annually to the legislature, and on or before the first day of February in each year, the quantity, and, as near as may be, the quality and value of the produce, provisions or merchandize, inspected by him during the year ending on the first day of January next preceding the making of such report, together with the amount of the fees and emoluments derived from his office ; and shall also communicate in his report, such information possessed by him, as may tend to the improvement of the quality, or increase in the quantity, of the articles subject to his inspection.⁴¹ Inspectors to report to legislature.

§ 198. Every inspector who shall not comply with the provisions of the preceding section, shall forfeit for each offence the sum of two hundred dollars, to be recovered by the attorney-general, to the use of the people of this state, and in their name.⁴¹ Penalty for neglect.

§ 199. The term "inspector," as used in each preceding Article of this Title, shall be construed to mean an inspector of the provisions, produce or merchandize to which the Article relates ; and as used in this Article, shall be construed to mean every inspector mentioned in the preceding Articles, and also, (except in the two last preceding sections,) the inspectors-general and cullers of staves and heading. "Inspector" defined.

TITLE III.

OF THE TARE OF BUTTER FIRKINS, AND THE PACKING AND SALE OF PRESSED HAY.

- Sec. 1.** Butter and lard firkins to be weighed and branded.
2. The brand to be taken as the tare of the firkin upon sales.
3. Penalty for offering any firkin not stamped, and for putting on false mark.
4. By whom penalties in last section recovered, and how applied.
5. Pressed hay how to be marked and branded.
6. Prohibition against putting up damaged hay, &c.
7. Penalty for violation of preceding provisions.
8. Provision as to weight by which pressed hay may be sold.
9. Fees for inspecting hay.

§ 1. Every firkin in which any butter or lard shall be packed for sale, shall be carefully weighed by the person packing the same, and the true weight thereof, be marked or stamped in a legible and durable manner on one of the staves or heads of such firkin, together with the initial letters of the name of the person packing such butter or lard.⁴² Tare.

(41) Laws of 1828, p. 245. § 5 ; 1827, p. 24. (42) Laws of 1816, p. 98.

TITLE 2
 1b.

§ 2. On every sale of any firkin of butter or lard, the weight so marked or stamped thereon, shall be deemed to be the tare of such firkin.⁴³

Penalties.

§ 3. Every person who shall knowingly offer for sale any firkin of butter or lard, not so marked or stamped, shall forfeit for each offence the sum of three dollars; and every person who shall put any false mark on any such firkin, or who shall sell, or offer to sell, any butter or lard in any firkin which he shall know to be falsely marked, shall forfeit for each offence the sum of five dollars.⁴³

D.

§ 4. The penalties given in the last section, shall be applied to the use of the city, town or village, in which the offence shall be committed; and may be recovered in the name of any officer, whom the town or the corporation of such city or village, shall appoint to sue for the same.⁴³

Pressed hay.
 Regulation.

§ 5. Every person who shall put up and press any bundle of hay for market, shall mark or brand, in a legible manner, the initials of his christian name, and his surname, at full length, and the name of the town in which he resides, on some board or wood attached to such bundle of hay.⁴⁴

Prohibition.

§ 6. No person shall put or conceal, in any such bundle of hay, any wet or damaged hay, or other materials, or hay of an inferior quality to that which plainly appears upon the outside of such bundle.⁴⁴

Penalty.

§ 7. Any person who shall put up, or cause to be put up and sold, any bundle of pressed hay in violation of the preceding provisions, shall be liable to be prosecuted in an action of debt, before any court having jurisdiction thereof, by the person aggrieved thereby; and if the court before whom such suit is brought, shall be satisfied, from the testimony given, that any of the preceding provisions have been violated, such court shall render judgment for a penalty of one dollar against the defendant, in favor of the plaintiff, together with such damages as he has suffered thereby, with costs of suit; but if such court shall be satisfied that no such violation has been committed, the costs shall be awarded against the plaintiff.⁴⁴

Weight.

§ 8. Such hay may be sold with or without deduction for tare, and by the weights as marked, or any other standard weight, as agreed upon between the buyer and seller.⁴⁴

Fees.

§ 9. No person shall receive any fees or compensation for inspecting any pressed or other hay, where he is the purchaser thereof for himself, or as agent for any other person.⁴⁴

(43) Laws of 1816, p. 96. (44) Laws of 1828, p. 326, chap. 287.

TITLE IV.

TITLE 4.

OF HAWKERS AND PEDLERS.

- SEC. 1. No person to peddle without license.
- 2. Application for licenses to be made to secretary of state.
- 3. What duties must be paid before applicant entitled to a license.
- 4. Secretary to grant license upon applicant's showing payment of fees.
- 5. Licenses to be issued in April, and renewed annually.
- 6. Penalty for peddling without license, or contrary to terms of it.
- 7. Penalty for refusing to show license when demanded.
- 8. Any citizen may apprehend a person found peddling without license, &c.
- 9. Duty of justice before whom such pedler may be taken.
- 10. In prosecutions for penalties under this Title, when no costs allowed to defendant.
- 11. No suit to be maintained, unless brought within 60 days after offence.
- 12. Persons sued for executing this Title, may plead general issue, &c.

§ 1. No person shall be authorised to travel, from place to place, within this state, for the purpose of carrying to sell or exposing to sale, any goods, wares or merchandize, of the growth, produce or manufacture of any foreign country, unless he shall have obtained a license as a hawker and pedler, in the manner herein after directed.⁴⁵ Pedlers to obtain license.

§ 2. Every person desirous to obtain a license as a hawker or pedler, shall apply to the secretary of this state, and shall deliver to him a note in writing, signed by such applicant, or his authorised agent, and stating in what manner the applicant intends to travel and trade, whether on foot, or with one or more horses, or other beasts of burthen, or with any sort of carriage, or boat.⁴⁵ License how applied for.

§ 3. Every such applicant, before he shall be entitled to a license, shall pay into the treasury the following duties: If he intend to travel on foot, the sum of fifty dollars; if he intend to travel and carry his goods with a single horse, or other beast carrying or drawing a burthen, or with a boat, or boats, the sum of eighty dollars; and if he intend to travel with any vehicle or carriage drawn by more than one horse, or other animal, the sum of one hundred dollars.⁴⁵ Duties to be paid.

§ 4. It shall be the duty of the secretary of state, upon the payment of his fees, to grant to every such applicant, who shall deliver to him, with the notice above required, the receipt of the treasurer, countersigned by the comptroller, showing the payment of the proper duties, a license under his seal of office, and signed by himself, or his deputy, authorising such applicant to travel and trade within this state as a hawker, or pedler, in the manner stated in the notice so delivered, for the term of one year from the date of such license.⁴⁵ License how to be granted.

§ 5. All such licenses, shall be issued in the month of April in each year, and at no other time; and every license granted, or to be granted, shall be renewed annually by the secretary of state, if such renewal be applied for, on the same terms and conditions that the original license was granted.⁴⁵ And when.

TITLE 4.

Penalty for
peddling
without
license.

§ 6. Every person who shall be found travelling and trading within this state, contrary to the provisions of the first section of this Title, or contrary to the terms of any license that may have been granted to him as a hawker, or pedler, shall, for each offence, forfeit the sum of twenty-five dollars, to the use of the poor of the town in which the offence shall be committed.⁴⁶

Penalty for
refusing to
produce
license.

§ 7. Every person so trading, who shall refuse to produce a license as a hawker or pedler, to any officer or citizen who shall demand the same, shall, for each offence, forfeit the sum of ten dollars, to the overseers of the poor of the town in which the demand shall be made, for the use of the poor therein; and every such offender, who, after notice, shall refuse or neglect to pay the above penalty, shall be committed by the justice before whom the conviction shall be had, to the jail of the county in which the offence shall have been committed, for the term of one month.⁴⁶

Proceeding
thereon.

§ 8. Any citizen may apprehend and detain any person who shall be found trading as a hawker or pedler, without license, or contrary to the terms of his license, or who shall refuse to produce a license, in violation of the provisions of this Title; and may convey the offender before any justice of the peace in the town or county in which he shall be apprehended.⁴⁷

1b.

§ 9. It shall be the duty of such justice, if a sufficient license to authorise such trading be not produced to him, and the fact of trading be proved to him, either by the confession of the person so apprehended, or the oath of competent witnesses, to convict the offender of such offences against this Title, as shall be so confessed or proved; and to issue his warrant on each conviction, directed to some constable of the county in which the conviction shall be had, commanding such constable to cause the sum of twenty-five dollars, with costs not to exceed five dollars, to be forthwith levied by distress and sale, at public vendue, of the goods, wares and merchandize of the offender. The monies collected on such warrant, exclusive of the costs, shall be paid by the justice, to the overseers of the poor of the town in which the offence shall have been committed.⁴⁷

Costs.

§ 10. In every case of a prosecution against any person for the recovery of any penalty given in this Title, no costs shall be allowed to the defendant, if it shall appear that before the commencement of the prosecution, such defendant had refused to produce his license, or to disclose his name when lawfully required; nor in such case shall the defendant be entitled to maintain any action, against the person prosecuting him, or the constable, or other persons by whom he may have been apprehended, or the justice issuing any warrant or other process

against him, or before whom he may have been tried, for any of their acts in so prosecuting, apprehending, or trying him.⁴⁸ ART. 1.

§ 11. No suit or prosecution for the recovery of any penalty imposed in this Title, shall be maintained, unless it shall appear to be brought within sixty days after the commission of the offence charged.⁴⁸ Limitation of suits.

§ 12. Every person who shall be sued for putting in execution this Title, or doing any matter or thing pursuant to its provisions, may plead the general issue, and give the special matter in evidence; and if the plaintiff in any such suit shall not prevail, the defendant shall be entitled to recover treble costs.⁴⁸ Pleading an evidence.

CHAP. XVIII.

Of Incorporations.

TITLE 1.—Of turnpike corporations.

TITLE 2.—Of monied corporations.

TITLE 3.—Of the general powers, privileges, and liabilities of corporations.

TITLE 4.—Special provisions relating to certain corporations.

TITLE I.

OF TURNPIKE CORPORATIONS.

ART. 1.—Of the mode of incorporating turnpike companies, and of the choice and powers of the directors.

ART. 2.—Of the construction of the road, and of the appraisement of damages.

ART. 3.—Of tolls, and their collection.

ART. 4.—General provisions embracing corporations now existing.

ARTICLE FIRST.

Of the Mode of Incorporating Turnpike Companies, and of the Choice and Powers of the Directors.

- SEC. 1. Persons incorporated to make a turnpike, to be a body corporate.
2. Commissioners to receive subscriptions, to keep open books for two years.
3. Subscribers to pay ten per cent. on amount subscribed.
4. When commissioners to give notice of election for directors.
5. Nine directors to be elected by a plurality of votes.
6. Commissioners to deliver to directors, subscription books and monies.
7. Election to be held annually; at each, persons to preside at next to be chosen.
8. If election not held on any day fixed by law, may be on some other day, &c.
9. Persons presiding at election to estimate votes, and declare result.
10. Stockholders to vote according to number of shares held by them.
11. Five directors may transact business.
12. Directors to elect one of their number president.
13. Board to supply vacancies.
14. Powers and duties of the president and directors.

TITLE I. *SEC. 15. For what causes the company shall cease to be a body corporate.*

16. When corporation may be dissolved by the legislature.

Corporation created.

SECTION 1. All such persons as shall hereafter be incorporated by an act of the legislature, for the purpose of making a turnpike road, shall be a body corporate, by the name given in the act of incorporation; and as such, they and their successors shall have power to purchase, hold and enjoy such real and personal estate, not exceeding the amount to be prescribed in such act, as shall be necessary to fulfil the ends of their incorporation.¹

Books to be opened.

§ 2. Each of the persons who shall be named in such act, as a commissioner for receiving subscriptions, shall furnish himself with a book for that purpose, which shall be kept open for two years, unless one-sixth of the whole number of shares shall be sooner subscribed.²

Payment on subscription.

§ 3. Each subscriber shall pay to the commissioner receiving his subscription, and at that time, on each share that he shall subscribe, one-tenth of the sum fixed in the act of incorporation, as the amount of one share, and the residue to the president and directors to be elected, at such time and place, as they shall from time to time require. The shares subscribed shall be deemed and considered to be personal estate.²

Notice of choosing directors.

§ 4. As soon as one-sixth part of the whole number of shares fixed in such act, as the capital of the corporation, shall have been subscribed, the commissioners shall, by advertisement to be published in two of the public newspapers printed nearest to the route of the road, give at least thirty days' notice, of the time and place, when and where, the subscribers shall meet to choose directors.²

Directors to be elected.

§ 5. At the election so appointed, the commissioners present shall preside; and the subscribers present, or their proxies, by a plurality of votes, shall elect by ballot nine stockholders, to be directors of the corporation for the ensuing year.²

Books and money to be delivered to directors.

§ 6. The commissioners shall deliver their respective subscription books, to the directors so chosen at their first meeting, and shall then pay over to such directors, the monies received by them, respectively, on such subscriptions.²

Annual election.

§ 7. An election for directors shall thereafter be annually held, on the same day of the same month on which the first election was held; and at each election, including the first, the stockholders present, by a plurality of votes, shall elect by ballot, three persons, to preside at the next succeeding election.²

How if not held.

§ 8. If an annual election shall not be held on the day fixed by law, it shall be held in the same manner, and with the like effect, on some early day, to be appointed by the directors then in office, who shall give and publish the same notice thereof, as is required in re-

spect to the first election ; and who, after the day on which such election ought to have been held, shall be incapacitated from doing any act as directors, except such as may be necessary to give effect to the election so to be appointed.³

ART. 1.

§ 9. The persons presiding at each election, shall immediately after receiving the ballots, openly estimate the votes, and thereupon make and subscribe a certificate of the result. Of the first election, they shall make a return to the directors chosen, at their first meeting thereafter.³

Duty of presiding officers.

§ 10. Each stockholder, in person or by proxy, shall, at each election, be entitled, on the shares then held by him, to one vote for each share, to the number of ten, and for every five shares above that number, to one additional vote.³

Rule as to voting.

§ 11. Five directors shall be a board for the transaction of business, and the acts of a majority of the board shall bind the corporation.³

Quorum.

§ 12. The directors, at their first meeting after their election, shall elect by ballot one of their number as president.³

President.

§ 13. The board shall supply every vacancy that may occur in the office of a director, and the person chosen shall hold his office until the next annual election. They shall also supply from the directors, every vacancy that shall occur in the office of president ; and one of the members present shall be chosen by a plurality of votes, to preside at every meeting of the board, from which the president shall be absent.³

Vacancies.

§ 14. The president and directors shall have power, and it shall be their duty,

Duties and powers of directors.

1. To meet from time to time, at such place as they may deem expedient :
2. To make such by-laws, rules and regulations, as in their judgment, the affairs of the corporation shall require :
3. To appoint such subordinate officers, artists and workmen, as they shall deem necessary to execute the business of the corporation :
4. To continue to receive subscriptions of shares, until their whole capital stock shall be subscribed, unless it shall have been ascertained, that a less sum will be sufficient to fulfil the ends of their incorporation :
5. To demand at such time and in such proportion as they shall see fit, from the respective stockholders, the sums of money due on their respective shares, under pain of the forfeiture of such shares, and of all previous payments thereon, to the corporation :
6. To declare by a by-law in what manner, and under what restrictions, the shares of their capital stock shall be transferable :

TITLE 1.

7. To construct, complete, and keep in constant repair, the road, with all the necessary buildings and appurtenances, for the making of which they shall have been incorporated :

8. To keep a fair and just account of all tolls received, and of all monies disbursed, and, deducting costs and charges, to make and declare a dividend of the clear profits and income of the road, among the stockholders, on the first Tuesday of May, and the first Tuesday of November, in every year :

9. To publish a notice of each dividend, in one or more of the public newspapers printed nearest to the route of the road, and of the time and place of the payment thereof, and to pay the same accordingly :

10. To report to the comptroller, within six months after the road shall be completed, an account of the expenses of its construction, and to exhibit annually to the comptroller, an account of the sums arising from the tolls, of the disbursements and of the dividends, actually made within the year.⁴

Forfeiture of corporate powers.

§ 15. Every company so incorporated shall cease to be a body corporate,

1. If within two years from their incorporation, they shall not have commenced the construction of the road described in the act of incorporation : and,

2. If within five years from such incorporation, such road shall not be completed according to the provisions of this Title, and of the act of incorporation.⁵

Dissolution.

§ 16. Every such corporation may be dissolved by the legislature, when by the income arising from tolls, it shall have been compensated for all monies expended in purchasing, making, repairing and taking care of its road, and have received in addition thereto, an average annual interest at the rate of ten per cent. ; and on such dissolution, all the rights and property of such corporation, shall vest in the people of this state.⁶

ARTICLE SECOND.

Of the Construction of the Road, and of the Appraisalment of Damages.

Sec. 17. The road to be laid out by commissioners to be appointed by governor.

18. Duty of commissioners.

19. Commissioners to be paid 8 dollars per day.

20. How road shall be constructed.

21. Mile stones to be erected.

22. Guide posts to be erected.

23. No director to be concerned in contract for making road.

24. Contractors for making road, not to make any new contract, except, &c.

25. After road laid out, president, &c. may agree with owner of land for purchase, &c.

26. How value of land ascertained, where owner and president, &c. cannot agree.

27 & 28. When company may take possession of land.

(4) 1 R. L. 228, § 9 to 13. (5) Ib. § 14.

Sec. 29. Not to take possession of public highway, unless paid for as private property.

30. Appraisement of land on old roads how made, and to whom amount paid.

31. Pay of the judge and appraisers.

ART. 2.

§ 17. The road directed to be made by each company so incorporated, shall be laid out by three, or any two of three, commissioners to be appointed by the governor : such commissioners must not be interested in any turnpike road, nor live in a county through which the road directed shall pass.⁶

Road how laid out.

§ 18. It shall be the duty of such commissioners,

1. To lay out the road directed, without favor or partiality, according to their best judgment and understanding, in such manner as shall best promote the objects of the corporation, and the interests of the public :

Duty of commissioners.

2. To cause to be made an accurate map of their survey of such road, in every county through which it shall pass, designating therein the several particular points near or through which it passes, and to deposit and file such map in the office of the clerk of the county.⁶

§ 19. Each commissioner, for each day he shall be necessarily employed in the performance of such duty, shall receive the sum of three dollars, to be paid, together with the expenses of surveys and maps, by the corporation to which the road shall belong.⁶

Pay.

§ 20. Such road shall be constructed by the president and directors of such corporation, in the manner following :

Road how constructed.

1. It shall be laid out not less than four rods wide, and twenty-two feet of such width shall be bedded with stone, gravel, sound wood, or other hard substance, well compacted, and of sufficient depth to secure a good and solid foundation :

2. It shall be faced with gravel or broken stone, of a depth not less than nine inches, in such manner as to secure a firm and even surface, rising in the middle by a gradual arch :

3. The ditches on each side thereof shall, when practicable, be so made, as to render easy the passing of sleighs therein, and shall be so formed as to permit carriages conveniently to pass on and off the turnpike, where it shall be intersected by other roads :

4. It shall be made of such width as may be practicable, not less than twenty-two feet in any one place ; and without a ditch on the lower side in each place where, on account of the steepness of side-hills or rocks, it cannot, in the opinion of the commissioners, be made of the full width above required :

5. The lower side, where it shall not be of full width, shall be furnished with a strong and sufficient fender or railing, of the height of at least four feet above the surface of the road along which such fender shall be constructed.⁷

TITLE I.

 Mile stones,
 &c.

§ 21. A mile stone or post shall be erected and maintained by the corporation on each mile of the road, on which shall be fairly and legibly marked or inscribed, the distance of such stone or post from the place of the commencement of the road; and when such road shall commence at the end of any other road, having mile stones or posts, on which the distance from any city or town is marked, a continuation of that distance shall in like manner be inscribed.⁸

Guide posts.

§ 22. A guide post shall also be erected at the intersection of every public road, leading into or from the turnpike, on which shall be inscribed the name of the place to which such intersecting road leads, in the direction to which the name on the guide post shall point.⁸

Prohibition.

§ 23. No director of the corporation to which it shall belong, shall be concerned directly or indirectly in any contract for the making or working of the road, or any part thereof, during the time he shall be a director.⁹

1b.

§ 24. No contractor for the making of such road, or any part thereof, shall make a new contract for the performance of his work, or any part thereof, other than by hiring hands, teams, carriages or utensils, to be superintended and paid by himself, unless such new contract and its terms be laid before the board of directors, and be approved by them.⁹

Land may be agreed for.

§ 25. After the road shall have been laid out by the commissioners, the president and directors of the company to which it shall belong, may agree with the owners of the land through which it shall pass, for the purchase of so much thereof as shall be necessary for the making of the road, and the accommodation of gates, toll-houses, and other works thereto belonging.¹⁰

If no agreement be made, how damages to be assessed.

§ 26. In every case where the owner of land so required, shall be absent from the county, or shall not from any cause be capable in law so to agree, or shall refuse to agree, the value of such land, and the damages to the owners, shall be ascertained, in the manner following:

1. One of the judges not interested in the road, of the court of common pleas of the county in which the land shall be situated, upon application of the president and directors, shall, by an instrument in writing, signed by him, appoint three freeholders of the county, not inhabitants of any town through which the road shall pass, and not interested in the road or lands to be appraised, as appraisers:

2. The president and directors shall give notice to the appraisers of their appointment, and the appraisers, or any two of them, shall thereupon name a day for meeting on the land, and performing the duties required of them; which day shall not be more than twenty, nor less than ten days from such notice of their appointment:

(8) 1 R. L. 228, § 8. (9) 1b. § 15. (10) 1b. § 8.

3. The president and directors shall give at least ten days' notice to the owners of the land required, of the time and place of meeting, so appointed by the appraisers; but if any such owner be absent, or subject to any legal disability to contract, a copy of such notice may be left at the dwelling-house of such owner, or at some public place on the lands to be appraised:

4. Each appraiser, before he shall proceed to execute his trust, shall take and subscribe in writing, before a justice of the peace in the county, the oath or affirmation prescribed in the constitution of this state:

5. The appraisers shall then proceed to view the premises, and without favor or partiality, to assess the damages sustained by the respective owners of the lands deemed necessary by the president and directors, to be taken and appropriated for the road:

6. They shall make an inquisition, under their hands and seals, or the hands and seals of any two of them, describing such land, and stating the amount of damages, if any, which each owner of lands or improvements so taken and appropriated, has sustained, or will sustain, in consequence thereof:

7. The inquisition shall be acknowledged by the appraisers signing it, before one of the judges of the county in which the lands are situated, and so acknowledged, shall be filed by them, together with their oath or affirmation of office, in the clerk's office of such county, within thirty days after it shall have been made, to be by such clerk recorded in a book for recording deeds, at the expense of the corporation.¹¹

§ 27. The president and directors, upon payment of the several sums so assessed as damages, in the inquisition so made, or upon making a legal tender thereof, when the monies shall be refused, shall be entitled to enter on the lands described in the inquisition, and shall have and hold the same, to them, their successors and assigns forever.¹¹

§ 28. If on any parcel of the lands so described, there shall be no person then living, authorised to receive the damages assessed for such parcel, and such damages shall not have been lawfully demanded, within ten days after the filing of such inquisition, the president and directors may enter thereon, without payment or tender of such damages; but subject to such payment, whenever the same shall be thereafter lawfully required.¹¹

§ 29. Such president and directors shall not enter on and take possession of any public highway, until it shall have been appraised and paid for, in the same manner as private property, and the amount appraised for each highway so taken, shall be paid to the commissioners of highways in the town to which it shall belong, to be by them applied in improving the roads in such town.¹¹

(11) 1 R. L. 228, § 3.

TITLE I. **§ 30.** Whenever an appraisement shall be made of the lands on any old road, used as such by prescription, on which a turnpike shall be laid out, the appraisers shall set down the value of the soil and of the improvements, and the monies paid by any town for making such improvements, in separate sums; and the sum for which the soil is appraised shall be paid to the owners thereof, and the value of the improvements, and the sums paid therefor, by any town, shall be paid to the commissioners of highways of the town in which such old road shall be situate.¹²

Pay of judge and appraisers. **§ 31.** The president and directors procuring the appointment, shall pay to the judge for appointing appraisers, one dollar, and to each appraiser, two dollars for every day he shall be necessarily employed in his duties as such.¹³

ARTICLE THIRD.

Of Tolls, and their Collection.

Sec. 32. When road complete, governor to appoint persons to inspect it.

33. If made in a workmanlike manner, gates to be erected.

34. Toll-gatherers to be appointed.

35. Persons may be prevented from passing gate until toll paid.

36. When toll not to be exacted.

37. Tolls upon particular carriages.

38. Rates of toll to be kept over gate.

Inspectors to be appointed. **§ 32.** As soon as the president and directors of any company incorporated under this Title, shall have completed their road, or any ten miles thereof, they shall give notice thereof to the governor, who shall thereupon appoint three discreet freeholders, not interested in any turnpike, to view the road as described in the notice, and to report to him, in writing, whether the same is completed in a workmanlike manner, according to the requisitions of this Title, and of the act of incorporation.¹⁴

Gates to be erected. **§ 33.** If such report shall be in the affirmative, it shall be the duty of the governor, by license under his hand, and the privy seal of the state, to permit the president and directors, to erect so many gates and turnpikes on the road reported, as shall be sufficient for the collection thereon, of the tolls authorised by law.¹⁴

Toll-gatherers. **§ 34.** The president and directors shall then appoint toll-gatherers, to collect, at each gate so erected, from the persons using the road, such toll as shall be authorised in their act of incorporation.¹⁵

Their powers. **§ 35.** Each toll-gatherer may detain and prevent from passing through his gate, the persons riding, leading, or driving animals or carriages subject to toll, until they shall have paid respectively the tolls authorised by law.¹⁵

When tolls not to be collected. **§ 36.** No tolls shall be collected at any gate of any company incorporated under this Title in either of the following cases :

(92) 1 R. L. 228, § 3. (13) *Ib.* § 4. (14) *Ib.* § 6. (15) *Ib.* § 7:

1. From any person passing to or from public worship, or a funeral; to or from a grist-mill for the grinding of grain for family use; or to or from the blacksmith's shop to which he usually resorts for work there to be done :

2. From any person going for a physician or midwife, or returning from such errand; going to or returning from court when legally summoned as a juror or witness; going to or returning from a militia training, which, by law, he is required to attend; or going to a town-meeting or election at which he is entitled to vote, for the purpose of giving such vote, and returning therefrom :

3. From any person residing within one mile of the gate at which toll is demanded, unless he shall be employed in the carriage or transportation of the property of other persons, not so residing :

4. From troops in the service of this state, or of the United States.¹⁶

§ 37. From carriages having wheels, of which the tire or track is, When tolls not to be collected.

1. Twelve inches wide, no tolls :

2. Nine inches wide, one fourth only of the tolls otherwise payable :

3. Six inches wide, one half only of such tolls,

Shall be collected.¹⁶

§ 38. It shall be the duty of the president and directors, to affix List of tolls. and keep up, at or over each gate, in some conspicuous place, so as to be conveniently read, a printed list of the rates of toll demandable at such gate.¹⁶

ARTICLE FOURTH.

General Provisions embracing Corporations now existing.

Sec. 39. Five inspectors of turnpikes to be appointed for each county.

40. To inspect all turnpikes in the county, with certain exceptions.

41. Upon complaint in writing, to view road; and may order gates to be opened.

42. When gate ordered to be open, not to be shut without certificate of an inspector.

43. In certain cases, inspectors to view road out of their county.

44. Penalty for disobeying order to open gate, taking toll, &c.

45. Inspector to give notice of road being out of repair, &c. to a director.

46. Contents of notice; and in mean time gate may be ordered to be thrown open.

47. Proceedings of inspector, if notice not obeyed; fine on conviction of company.

48 & 49. Fees of the inspector, and by whom paid.

50. Penalty for delaying travellers or receiving more than legal tolls.

51. When corporation to be liable for penalties recovered against gate-keeper.

52. Corporation may commute for tolls, with certain persons.

53. If day of election for directors happen on Sunday, to be held on next day.

54. Penalties for injuring mile-stones, gates, &c. and passing gate without paying toll.

55. Penalty for turning off from road, to evade payment of toll.

56. Penalty for erecting hoist-gates not equally balanced.

§ 39. In each county of this state, in which there is or shall be any Inspectors, &c. turnpike road, there shall be not less than three, nor more than five inspectors of turnpikes, neither of whom shall be interested in any turnpike within the state.¹⁷

(16) 1 R. L. 253, § 7; Laws of 1818, p. 52. (17) 2 R. L. 225, § 1.

TITLE 1.

Powers.

§ 40. The persons appointed to such office, shall be the inspectors of all the turnpike roads within their county, except in cases where, by the act of incorporation, a special provision for the inspection of the road is made. But where the president, directors and company of any turnpike shall have refused or neglected to obtain the appointment of inspectors of their road, or when there shall be no inspectors of such road in office, or those in office shall refuse or neglect to serve when called upon, the county inspectors, shall, in respect to such turnpike, exercise all the powers conferred by this Article, until inspectors for such road shall be appointed according to the act incorporating the same, and until such inspectors shall accept their appointment and agree to serve.¹⁸

Duty on complaint that road is out of repair.

§ 41. It shall be the duty of each inspector to whom a complaint in writing shall be made, that a turnpike road, or a part of such road, in his county is out of repair, without delay to view and examine the road complained of; and if he shall find such complaint to be just, he shall give notice in writing of the defect, to the toll-gatherer, or person attending the gate nearest to each place out of repair, and in such notice, may, in his discretion, order such gate to be thrown open; but no inspector or inspectors shall order such gate to be opened, unless a notice in writing shall have been served on the gate-keeper nearest to the place out of repair, particularly describing such place, at least three days previous to making such order.¹⁸

Proceedings.

§ 42. Immediately after the service of such notice, each gate ordered to be thrown open, shall be opened; nor shall it be again shut, nor any toll be collected thereat, until one of the inspectors for the county, shall have granted a certificate, that the road is in sufficient repair, and that such gate ought to be closed.¹⁸

When to view road out of their county.

§ 43. Whenever any part of a turnpike road shall be out of repair, and the gate to which it has relation, is situated in an adjoining county for which inspectors shall have been appointed, such inspectors, upon a complaint in writing, shall view and examine the road complained of, and proceed thereon according to the provisions of this Article, in like manner as if the road so complained of was within the county where such gate is situated.¹⁸

Penalty for not opening gate, &c.

§ 44. Every keeper of a gate ordered to be thrown open, who shall not immediately obey such order, or who shall not keep open such gate until a certificate permitting it to be closed shall be granted, or who, during the time such gate ought to be open, shall hinder or delay any person in passing, or take or demand any tolls from any person passing, shall, for each offence, forfeit the sum of ten dollars to the party aggrieved.¹⁸

(18) 2 R. L. 225, § 1 & 3; Laws of 1819, p. 303, § 1 & 3; Act concerning the Revised Statutes, passed Dec 10, 1823, § 15.

§ 45. It shall be the duty of each inspector, who, upon due examination, shall have discovered a turnpike road within his county, to be out of repair, or that any gate thereon is placed in a situation contrary to law, to give notice in writing of such defect or default, to one or more of the directors of the company to which such road shall belong.¹⁹

ART. 4.
Inspector when to give notice.

§ 46. In such notice, he shall require the defective road to be repaired, or the gate improperly placed to be removed, within a certain time to be fixed in the notice; and in his discretion, may order, that in the mean time, the gates on such road, or such of them as he shall specify, be thrown open.¹⁹

Contents of notice.

§ 47. If the requisitions of such notice be not obeyed, it shall be the duty of such inspector, to make immediate complaint to the attorney-general, or the district attorney for the county, whose duty it shall be to prosecute the delinquent company, in the name of the people of this state. Such corporation, if convicted of having suffered their road to be out of repair, or having placed one or more of the gates thereon in a situation contrary to law, shall be fined in a sum not exceeding two hundred dollars.¹⁹

Proceedings if not complied with.

§ 48. To each inspector of turnpikes, who shall view a turnpike road upon complaint made to him, shall be allowed the sum of two dollars for each day spent by him in the performance of such duty. If he shall adjudge the road viewed to be out of repair, such fees shall be paid by the company to which the road shall belong; otherwise, they shall be paid by the party making the complaint.¹⁹

Compensation of turnpike inspectors.

§ 49. Such fees, when payable by the company, shall be paid by the toll-gatherer nearest the road adjudged out of repair, on demand, and out of the tolls received or to be received by him; and may be recovered, with costs, of such toll-gatherer, if he shall neglect or refuse to make such payment.¹⁹

How paid.

§ 50. Every toll-gatherer, who, at any turnpike gate, shall unreasonably hinder or delay any traveller or passenger liable to the payment of toll, or shall demand and receive from any person more toll than by law he is authorised to collect, shall, for each offence, forfeit the sum of five dollars to the person aggrieved.²⁰

Penalty on toll-gatherers.

§ 51. Whenever a judgment is obtained against a toll-gatherer for a penalty, or for damages, for acts done or omitted to be done by him in his capacity of toll-gatherer, and goods and chattels of the defendant to satisfy such judgment cannot be found, it shall be satisfied by the corporation whose officer he shall be; and if, on demand, payment be refused by the corporation, the amount thereof may be recovered, with costs, of such corporation.²¹

How collected.

(19) 2 R. L. 225, § 8. (20) 1 R. L. 234, § 9. (21) Ib. 2 R. L. 226, § 4.

TITLE I.
Commuta-
tion.

§ 52. The president and directors of every turnpike corporation created or to be created, may from time to time commute with any person, whose place of abode shall adjoin or be near to their road, for the toll payable at the nearest gate on each side of such place of abode; but no such commutation shall be for a longer time than one year, and it may be renewed at the end of each period for which it shall be made.²²

Election on
Sunday.

§ 53. Whenever the day of election for directors of any such corporation shall happen on a Sunday, such election shall be held on the day next following.²³

Penalties.

§ 54. Every person who shall,
 1. Wilfully break, cut down, deface or injure any mile stone or post, on any turnpike road: or,
 2. Wilfully break or throw down any gate or turnpike on such road: or,
 3. Dig up or spoil any part of such road, or any thing thereunto belonging: or,
 4. Forcibly or fraudulently pass any gate thereon, without having paid the legal toll:

For each offence, shall forfeit to the corporation injured, the sum of twenty-five dollars, in addition to the damages resulting from his wrongful act.²⁴

Ib.

§ 55. Every person who, to avoid the payment of the legal toll, shall, with his team, carriage or horse, turn out of a turnpike road, or pass any gate thereon, on ground adjacent thereto, and again enter on such road, shall for each offence forfeit the sum of five dollars to the corporation injured.²⁴

Hoist gates
to be equally
balanced.

§ 56. No hoist-gate shall be erected on any turnpike, unless it be suspended by a chain and weight equally balanced, so as to require manual force to raise and lower such gate; and every turnpike company violating this provision, shall forfeit five dollars for every twenty-four hours such gate shall remain erected, to any person who will prosecute for the same, not being a director, stockholder or agent of such company.²⁵

TITLE II.

OF MONIED CORPORATIONS.

ART. 1.—Regulations to prevent the insolvency of monied corporations, and to secure the rights of their creditors and stockholders.

ART. 2.—Regulations concerning the election of directors of monied corporations.

ART. 3.—Of the construction of this Title.

(22) 2 R. L. 227, § 5. (23) *Ib.* § 7. (24) 1 R. L. 234, § 3. (25) Laws of 1819, p. 308, § 4; Act concerning the Revised Statutes, passed Dec. 10, 1823, § 15.

ARTICLE FIRST.

ART. 1.

*Regulations to prevent the Insolvency of Monied Corporations,
and to secure the Rights of their Creditors and Stockholders.*

- Sec. 1. Restrictions and prohibitions upon monied corporations.
2. Unpaid interest due, not to be calculated as profits for purpose of a dividend.
 3. How surplus profits to be ascertained, from which dividend is to be made.
 4. Amount of losses exceeding undivided profits, to be charged to capital, &c.
 5. When loans exceed three times amount of capital, excess to be called in.
 6. In what cases stock pledged to be sold and charged as reduction of capital.
 7. Conveyances of effects for use of a corporation, must be directly to it; except, &c.
 8. Property of corporation worth more than \$1000 not to be conveyed without resolution of board.
 9. Conveyances in contemplation of insolvency, void.
 - 10 & 11. Penalty on directors for violating preceding sections.
 - 12 & 13. When directors to be charged with knowledge of affairs of the corporation.
 14. When insolvencies of monied corporations to be deemed fraudulent.
 15. Liability of directors, by whose acts fraudulent insolvencies occasioned.
 16. Liability of stockholders in cases of fraudulent insolvency.
 17. Liability, in such case, of persons who transferred stock.
 18. Construction of the term "stockholder."
 19. Corporations to transmit to comptroller statement of their affairs annually.
 - 20 & 21. Matters to be set forth in such statement.
 22. Penalty for not transmitting statement.
 23. Comptroller to enter statement in a book, which is to be open to public inspection.
 24. Comptroller to report to the legislature violations of the charter or of this Title.
 25. Forms of statements to be prepared by comptroller and transmitted, &c.
 26. Banks not to issue bills for less than one dollar.
 27. Penalty on banks and their officers for buying their own notes in certain cases.
 28. Officers, &c. of banks not to discount notes offered to bank and rejected.
 29. Monied corporations not to commence business until stock is paid in.
 30. Affidavit of the fact to be made, and where filed.
 31. Charter void, if within a year after it was granted affidavit be not filed.

§ 1. It shall not be lawful for the directors of any monied corporation, Restrictions on monied incorporations.

1. To made dividends, except from the surplus profits, arising from the business of the corporation :
2. To divide, withdraw, or in any manner pay to the stockholders, or any of them, any part of the capital stock of the corporation ; or to reduce such capital stock, without the consent of the legislature :
3. To discount or receive any note or other evidence of debt, in payment of any instalment actually called in and required to be paid, or with the intent of providing the means of making such payment :
4. To receive or discount any note or other evidence of debt, with the intent of enabling any stockholder to withdraw any part of the money paid in by him, on his stock :
5. To apply any portion of the funds of their corporation except surplus profits, directly or indirectly to the purchase of shares of its own stock :
6. To receive any such shares in payment or satisfaction of any debt due to their corporation, except as herein after provided :
7. To receive from any other stock corporation, in exchange for the shares, notes, bonds, or other evidences of debt of their own company, shares of the capital stock of such other corporation, or notes, bonds, or other evidences of debt, issued by such other corporation :

TITLE 2

8. To make any loans or discounts, if the corporation have banking powers, by which the whole amount of the loans and discounts of the company shall be made to exceed three times its capital stock, then paid in, and actually possessed :

9. To make any loans or discounts to the directors of such corporation, or upon paper upon which such directors, or any of them, shall be responsible, to an amount exceeding in the aggregate, one third of the capital stock of such corporation, actually paid in and possessed ; but no securities taken for any such loan or discount, shall be held invalid.

Profits how
calculated.

§ 2. In the calculation of the profits of any monied corporation, previous to a dividend, interest then unpaid, although due, or accrued, on debts owing to the company, shall not be included.

Surplus pro-
fit.

§ 3. In order to ascertain the surplus profits, from which alone a dividend can be made, there shall be charged in the account of profit and loss, and deducted from the actual profits,

1. All the expenses paid or incurred, both ordinary and extraordinary, attending the management of the affairs, and the transaction of the business of the company :

2. The interest paid, or then due, or accrued, on debts owing by the company :

3. All losses sustained by the company ; and in the computation of such losses, all debts owing to the company, shall be included, which shall have remained due, without prosecution, and no interest having been paid thereon for more than one year ; or on which judgments shall have been recovered, that shall have remained for more than two years unsatisfied, and on which no interest shall have been paid during that period.

Losses how
to be charg-
ed.

§ 4. When any losses shall be sustained by any such corporation, that shall exceed its undivided profits, then realized and possessed, they shall be charged as a reduction of the capital stock of the company, and no dividends shall thereafter be made on the shares of such stock, until the deficit of capital so created, shall be made good, either by the recovery of the monies charged as lost, or from the subsequently accruing profits of the company.

Loans when
to be called
in.

§ 5. If from the occurrence of losses charged, or proper to be charged, as a reduction of its capital stock, the whole amount of the loans and discounts made by any corporation having banking powers, shall exceed three times the amount to which its capital paid in, is, or ought to be reduced, it shall be the duty of the directors of such corporation, to call in and cause to be paid, without delay, such a portion of such loans, as shall reduce their whole amount within the limits before prescribed.

§ 6. If any shares of its own capital stock shall be hypothecated or pledged to any monied corporation, and the debt which they shall be intended to secure, shall not be paid when due, it shall be the duty of the directors of the company, within sixty days thereafter, to cause such shares to be sold; and if within that period, such shares shall not be sold, and the debt shall remain unsatisfied, the shares shall be charged at the amount actually paid thereon, as a reduction of the capital stock of the company, and no dividends shall thereafter be made, until the deficit so created, be made good from the subsequently accruing profits of the company.

ART. 1.
Proceedings on stock hypothecated, when debt is not paid.

§ 7. No conveyance, assignment or transfer of any effects, for the use, benefit or security of any such corporation shall be valid in law, unless it be made to the corporation directly and by name; but the provisions of this section shall not be construed, to apply to a conveyance or assignment for the benefit of creditors, in which such corporation shall be included, or to a conveyance or assignment of the effects of a debtor under the laws of this state, or of any other state or country.

Certain conveyances for use of corporation invalid.

§ 8. No conveyance, assignment or transfer, not authorised by a previous resolution of its board of directors, shall be made by any such corporation of any of its real estate, or of any of its effects, exceeding the value of one thousand dollars; but this section shall not apply to the issuing of promissory notes, or other evidences of debt, by the officers of the company in the transaction of its ordinary business, nor to payments in specie or other current money, or in bank bills, made by such officers; nor shall it be construed to render void any conveyance, assignment or transfer, in the hands of a purchaser for a valuable consideration, and without notice.

Certain conveyances by corporation invalid.

§ 9. No such conveyance, assignment or transfer, nor any payment made, judgment suffered, lien created, or security given, by any such corporation when insolvent, or in contemplation of insolvency, with the intent of giving a preference to any particular creditor over other creditors of the company, shall be valid in law; and every person receiving, by means of any such conveyance, assignment, transfer, lien, security or payment, any of the effects of the corporation, shall be bound to account therefor to its creditors or stockholders, or their trustees, as the case shall require.

§ 10. Every director who shall violate, or be concerned in violating any provision, in the preceding sections of this Article contained, shall be liable personally to the creditors and stockholders respectively, of the corporation of which he shall be a director, to the full extent of any loss they may respectively sustain from such violation.

Penalty on director violating preceding sections.

§ 11. Every director guilty of such violation, whether a loss shall or shall not result, shall be deemed guilty of a misdemeanor, punish-

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TITLE 2. able by fine or imprisonment, or both, in the discretion of the court by which he shall be tried.

Director when chargeable for such violation.

§ 12. Every director shall be deemed to possess such a knowledge of the affairs of his corporation, as to enable him to determine whether any act, proceeding, or omission, of its directors, is a violation of the foregoing provisions of this Article; and every director who shall be present at a meeting of the directors, where such a violation shall happen, shall be deemed to have concurred therein, unless he shall, at the time, cause, or in writing require, his dissent therefrom, to be entered at large, in the minutes of the directors.

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§ 13. Every director not present at a meeting where such a violation shall happen, shall nevertheless be deemed to have concurred therein, if the facts constituting such violation appear on the books of the company, and he remain a director of the same company for six months thereafter, and do not, within that time, cause, or in writing require, his dissent from such illegal proceeding, to be entered at large, in the minutes of the directors.

Insolvency when deemed fraudulent.

§ 14. Every insolvency of a monied corporation shall be deemed fraudulent, unless its affairs shall appear, upon investigation, to have been fairly and legally administered, and generally, with the same care and diligence, that agents, receiving a compensation for their services, are bound, by law, to observe; and it shall be incumbent on the directors and stockholders of every such insolvent corporation, to repel, by proof, the presumption of fraud.

Liability of directors in case of fraudulent insolvency.

§ 15. In every case of a fraudulent insolvency, the directors of the insolvent company, by whose acts or omissions the insolvency was wholly, or in part, occasioned, and whether then in office or not, shall each be liable to the stockholders and creditors of the company, for his proportional share of their respective losses; the proportion to be ascertained by dividing the whole loss amongst the whole number of directors liable for its reimbursement; but this section shall not be construed to diminish the liability of directors, as before declared, who shall have violated, or have been concerned in violating the provisions of this Article.

Liability of stockholders in case of fraudulent insolvency.

§ 16. If the monies remaining due to the creditors of a corporation, whose insolvency shall be adjudged fraudulent, after the distribution of its effects, shall not be collected, in whole or in part, from the directors liable for their reimbursement, the deficiency shall be made good, by the contribution of the stockholders of the company; the whole amount of the deficiency shall be assessed on the whole number of shares of the capital stock, and the sum necessary to be paid on each share, shall be then ascertained, and each stockholder shall be liable for the sum assessed on the number of shares held by him, not exceeding the nominal amount of such shares, in addition to

the sums paid, or which he may be liable to pay, on account of those shares. ART. 1.

§ 17. If the amount assessed on the shares of any stockholder, under the provisions of the last section, shall not be collected from such stockholder, by reason of his insolvency, or his absence from this state, the sum remaining due on such assessment, shall be recoverable against the person from whom the delinquent stockholder, at any time within six months previous to the insolvency of the company, shall have received a transfer of the shares, or any portion of the shares then held by him; and every person having made such transfer, shall be liable in the same manner, and for the same proportion that he would have been liable, had he continued to hold the shares so transferred. When persons who have transferred stock shall be liable.

§ 18. The term "stockholders," as used in the preceding sections of this Title, from the fourteenth section inclusive, shall extend to every equitable owner of stock, appearing on the books of an insolvent company, in the name of another person, and to every person who shall have advanced the instalments; or purchase money, of any shares of stock, standing in the name of any of his children, under the age of twenty-one years; but no person holding stock, as an executor or administrator, or as a guardian or trustee, appointed by a last will or testament, or by a court of competent authority, and no legal or equitable owner of stock, under the age of twenty-one years, shall be individually responsible on account of the shares so held. Construction of term 'stockholders,' from § 14.

§ 19. It shall be the duty of every monied corporation hereafter created, on the first day of January after its incorporation, and annually on the same day thereafter, to make out and transmit to the comptroller, in the form prescribed by him, a full statement of its affairs, verified by the oaths of its president and cashier, or treasurer or secretary. Annual statement to be transmitted to comptroller.

§ 20. Each statement so transmitted shall contain, Contents thereof.

1. The amount of the capital stock of the corporation, paid in, or invested according to the provisions of its charter, and the amount of such stock as then possessed:

2. The value of the real estate of the corporation, specifying what portion thereof is occupied by the company as necessary to the transaction of its business:

3. The shares of stock held by such corporation, whether absolutely or as collateral security, specifying each kind and description of stock, and the number and value of the shares of each:

4. The debts owing to the corporation, specifying such as are owing from other monied corporations, the names of such corporations, and the amount due from each; and also specifying the amount secured by bond and mortgage or judgment, the amount which, accord-

TITLE 2. ing to the provisions of this Article, ought to be included in the computation of losses, and the total amount of such debts then collectible:

5. The amount of debts owing by the corporation, specifying such as are payable on demand, and such as are due to other monied corporations, the names of such corporations, and the amount due to each :

6. The amount of the claims against the corporation not acknowledged by it as debts :

7. The amount for which the corporation is bound as surety, or for which it may become liable on the happening of contingent events, whether upon policies of insurance or otherwise : and,

8. If the statement be from a corporation having banking powers, the amount of its notes or bills then in circulation, of its loans and discounts, and of specie on hand.

Further contents of each statement after the first.

§ 21. Each statement subsequent to the first so transmitted shall also contain,

1. The amount of the losses of the corporation charged, specifying whether charged on its capital or profits, since its last preceding statement, and of its dividends declared and made during the same period :

2. The average amount for each month, during the preceding year, of the debts due to and from the corporation : and,

3. If the statement be from a corporation having banking powers, the amount on the first day of July of the same year of its notes or bills in circulation, of its loans and discounts, and of its specie on hand.

Penalty for neglect.

§ 22. Every corporation that shall neglect to make out and transmit the statement required, for one month beyond the period when by law it ought to be made, may be proceeded against, and dissolved as an insolvent corporation.

Duty of comptroller in regard to such statement.

§ 23. It shall be the duty of the comptroller to enter every such statement received by him, in a book to be provided by him for that purpose, and which shall at all times, during office hours, be open to public inspection.

It.

§ 24. If it shall appear to the comptroller from any statements received by him, that the provisions of its charter, or of this Title, have been violated by any corporation, or that there is reason to apprehend, that any corporation is, or will become insolvent, it shall be his duty to report the facts, together with his opinion thereon, without delay, to the legislature.

It.

§ 25. It shall be the duty of the comptroller, to prepare forms of the statements above prescribed, and to transmit a copy thereof, together with such instructions as he may deem necessary, to every corporation which is or shall be bound, to furnish such statements under the provisions of this Title.

§ 26. No corporation having banking powers, shall issue for circulation, any bill or promissory note, of a less denomination than one dollar.

ART. 2.
Prohibition on banks.

§ 27. No corporation having banking powers, and none of its directors, officers, agents or servants shall, directly or indirectly, purchase, or be interested in the purchase of any promissory note, or other evidence of debt, issued by such corporation, for a less sum than shall appear on the face thereof to be then due; and every person violating the provisions of this section, shall forfeit three times the nominal amount of the note, or other evidence of debt, so purchased.

It. and on their officers.

§ 28. No president, director, cashier, clerk or agent, of any corporation having banking powers, and no person in any way interested or concerned, in the management of the affairs of any such corporation, shall discount, or directly or indirectly make any loan, upon any note or other evidence of debt, which he shall know to have been offered for discount to the directors, or any officer of such corporation, and to have been refused; and every person violating the provisions of this section, shall, for each offence, forfeit twice the amount of the loan which he shall have made.

It.

§ 29. No monied corporation, to which a charter shall hereafter be granted, shall commence the business for which it shall be incorporated, until its president and cashier, or treasurer, or secretary, or its two principal officers, by whatever name they may be described, shall have made and subscribed an affidavit, stating that the whole of the capital stock of such corporation, or such portion thereof as, by its charter, shall be required to be paid or secured before the commencement of its operations, has been actually paid, or secured to be paid, according to the provisions of its charter.

Affidavits required from corporations hereafter made.

§ 30. Every such affidavit, if made in a city, shall be made before the mayor or recorder of such city, and if made in a county, before the first judge of the county, or any master in chancery therein, and shall be filed in the clerk's office of the city and county, or of the county in which it shall be taken.

How made and filed.

§ 31. The charter of every such corporation shall be void, if the affidavit above required, shall not be duly made and filed, within one year, from the time such charter shall be granted.

Penalty if not made.

ARTICLE SECOND.

Regulations concerning the Election of Directors of Monied Corporations.

- Sec. 32. Inspectors of elections how chosen; their pay.
- 33. Directors to supply vacancies in office of inspector.
- 34. Officers of the corporation not to be chosen inspectors.
- 35. Inspectors to take oath.

TITLE 2. Sec. 35, 37 & 38. Qualifications of voters.



39. Form of oath to be administered to persons offering to vote, who are challenged.
 40. Affidavits to be attached to proxies.
 41. Oath to be administered to person offering to vote upon proxy, if challenged.
 42. If challenged person refuse to take oath, his vote to be rejected.
 43. If election do not take place on day appointed, when to hold.
 44. By-laws regulating elections, when to be made and to be published.
 45. A register of transfers and a book containing names of stockholders, to be kept, &c.
 46. Penalty for refusing to allow stockholders to inspect them.
 47. Parties aggrieved by an election, may apply to supreme court for redress.
 48, 49 & 50. How supreme court to proceed in such applications.

Inspectors to
be chosen.

§ 32. At every election for directors in any monied corporation, three persons shall be chosen by the persons entitled to vote for directors, as inspectors at the next succeeding election, whose duty it shall be to act as such, and any two of whom shall be competent to act. Each acting inspector shall be entitled to a reasonable compensation for his services, to be paid by the corporation for which he is chosen.

Vacancies
how supplied

§ 33. The directors of the corporation shall supply any vacancy, that may occur by the death or removal from the city or county where the corporation shall be situated, of any such inspector, or by his refusal to serve, or neglect to attend on the day of election.

Disability.

§ 34. No person shall be chosen or appointed an inspector of an election of directors in a corporation of which he shall be a director or officer.

Oath of in-
spector.

§ 35. Every such inspector, before he shall enter on the duties of his office, shall take and subscribe the following oath, before any officer authorised by law to administer oaths: "I do solemnly swear that I will execute the duties of an inspector of the election now to be held, with strict impartiality, and according to the best of my ability."

Who may
vote.

§ 36. At every election of directors, the transfer books of the corporation shall be produced, to test the qualifications of the voters; and no persons shall be admitted to vote directly, or by proxy, except those, in whose names the shares of the stock of the corporation, shall stand on such books, and shall have so stood, for at least thirty days previous to the election.

ib. and on
what stock.

§ 37. No person shall be admitted to vote on any shares of stock, belonging, or hypothecated, to the corporation in which the election is held, nor shall any person be admitted to vote on any shares of stock, which shall then be hypothecated, or pledged, as a collateral security, to any other person or company.

ib.

§ 38. No person shall be admitted to vote on any shares, which shall have been transferred to him, for the sole purpose of enabling him to vote thereon, at the election then to be held; nor upon any shares, which he shall have previously contracted to sell or transfer after the election, upon any condition, agreement or understanding, in relation to his manner of voting at such election.

§ 39. Every person offering to vote, may be challenged by any other person authorised to vote at the same election; and to every person so challenged, one of the inspectors shall administer the following oath: "You do swear, (or affirm, as the case may be,) that the shares on which you now offer to vote do not belong, and are not hypothecated to the (naming the corporation for which the election is held,) and that they are not hypothecated or pledged to any other corporation or person whatever; that such shares have not been transferred to you for the purpose of enabling you to vote thereon at this election, and that you have not contracted to sell or transfer them, upon any condition, agreement or understanding, in relation to your manner of voting at this election."

ART. 2
Challenge.

Oath.

§ 40. No person shall be permitted to vote upon the proxy of a stockholder, unless he shall produce, annexed to his proxy, an affidavit of such stockholder, stating the same facts to which the oath of such stockholder might have been required, upon a challenge, had he offered to vote in person, on the shares mentioned in the proxy.

Persons voting on proxies

§ 41. If any person offering to vote upon a proxy, shall be challenged by an elector, he shall be required to take the following oath, to be administered to him by one of the inspectors: "You do swear, (or affirm,) that the facts stated in the affidavit annexed to the proxy, upon which you now offer to vote, are true according to your belief, and that you have made no contract or agreement whatever, for the purchase or transfer of the shares, or any portion of the shares, mentioned in such proxy."

Their oath if challenged.

§ 42. If any person duly challenged, shall refuse to take the proper oath, his vote shall be rejected, and shall not be afterwards received at the same election; if he shall take the oath, his vote shall be received.

Proceedings on challenge.

§ 43. If an election for directors in any such corporation, shall not be held on the day appointed by law, it shall be the duty of the directors to notify, and cause such election to be held, within sixty days after the day so appointed; and on the day so notified, no persons shall be admitted to vote, except those who would have been entitled, had the election taken place on the day when, by law, it ought to have been held.

Proceedings if election be not held.

§ 44. No by-law of any such corporation, regulating the election of its directors, shall be valid, unless it shall be made at least sixty days before the day appointed by law for the election to be held, and shall have been published for at least two weeks in succession, immediately following its enactment, in some newspaper in the city or county where the corporation is situated.

Certain by-laws invalid.

§ 45. Every such corporation shall keep a book, in which the transfer of shares of its stock shall be registered; and another book,

Transfer book of stock

TITLE 2. containing the names of its stockholders; which books shall at all times during the usual hours of transacting business, for thirty days previous to an election of directors, be open to the examination of the stockholders.

Penalty for refusing to exhibit.

§ 46. If any officer having charge of such books, shall, upon the demand of a stockholder, refuse or neglect to exhibit and submit them to examination, he shall for each offence forfeit the sum of two hundred and fifty dollars.

Remedy of persons aggrieved by election.

§ 47. If any person shall conceive himself aggrieved by an election, or any proceeding concerning an election of directors or officers in any such corporation, he may apply to the supreme court for redress, giving a reasonable notice of his intended application, to the party to be affected thereby.

Proceedings.

§ 48. It shall be the duty of the supreme court, upon such application, to proceed forthwith in a summary way, to hear the proofs and allegations of the parties, or otherwise to inquire into the causes of complaint, and thereupon to make such order, and grant such relief, as the circumstances and justice of the case shall seem to require. If the election complained of shall be set aside, the supreme court may order a new election, at such time and place as they shall appoint.

1b.

§ 49. The supreme court, if they cannot otherwise arrive at a satisfactory result, may order an issue between the parties, to be made up in such manner and form, and to be tried in such court, as they shall select; or may permit or direct the attorney-general to file an information, in the nature of a *quo warranto*, if the case be one in which that proceeding would be competent and effectual.

1b.

§ 50. If any such issue shall be ordered, or information permitted or directed to be filed, it shall be the duty of the supreme court to make such further orders in relation to the time and mode of pleading, the examination of witnesses or the parties, the production of books and papers, and the time and place of trial or hearing, as shall in their judgment be effectual for expediting the proceedings, saving expense to the parties, and causing a final determination to be had, with as little delay, as the nature of the controversy will permit.

ARTICLE THIRD.

Of the Construction of this Title.

Sec. 51. Meaning of the term "monied corporation."

52. To what corporations this Title to apply.

53. Meaning of term "directors."

54. Meaning of term "effects."

55. Meaning of the term "evidence of debt."

"Monied corporation" defined.

§ 51. The term "monied corporation," as used in this Title, shall be construed to mean every corporation having banking powers, or having the power to make loans upon pledges or deposits, or authorized by law to make insurances.

§ 52. The provisions of this Title shall not apply to any monied corporation existing on the first day of January, one thousand eight hundred and twenty-eight; but they shall be construed to apply to every monied corporation created, or whose charter shall be renewed or extended, after that time, unless such corporation shall be expressly exempted from the provisions of this Title, in the act creating, renewing, or extending such corporation.²⁶

TITLE 3.
This Title to apply to future corp or-
tions only.

§ 53. The term "directors," as used in this Title, shall be construed to embrace all persons having by law, the direction or management of the affairs of any such corporation, by whatever name they may be described in its charter, or known in law.

"Directors" defined.

§ 54. The term, "effects," as used in this Title, shall be construed to embrace every species of property, real and personal, including things in action.

"Effects" defined.

§ 55. The term "evidence of debt," as so used, shall be construed to embrace every written instrument or security, for the payment of money, importing on its face the existence of a debt, and whether under seal or otherwise.

"Evidences of debt" defined.

TITLE III.

OF THE GENERAL POWERS, PRIVILEGES AND LIABILITIES OF CORPORATIONS.

Sec. 1. Powers of corporations.

2. To vest in every corporation hereafter created.
3. Corporations not to possess any additional powers, except those given by charter.
4. No corporation to exercise banking powers, unless expressly authorised.
5. When the stockholders may be required to pay in the balance on their stock.
6. A majority of the body authorised to act for a corporation, may do business.
7. If corporation do not commence business in a year, powers to cease.
8. Every charter hereafter granted, subject to alteration by legislature.
9. Who to settle affairs of corporation upon its dissolution.
10. Powers and liabilities of persons so acting.

§ 1. Every corporation, as such, has power,

General pow-
ers.

1. To have succession by its corporate name, for the period limited in its charter; and when no period is limited perpetually :
2. To sue and be sued, complain and defend, in any court of law or equity :
3. To make and use a common seal, and alter the same at pleasure :
4. To hold, purchase, and convey such real and personal estate, as the purposes of the corporation shall require, not exceeding the amount limited in its charter :
5. To appoint such subordinate officers and agents, as the business of the corporation shall require, and to allow them a suitable compensation :

(26) Act concerning the Revised Statutes, passed December 10, 1828, § 15.

TITLE 2

6. To make by-laws, not inconsistent with any existing law, for the management of its property, the regulation of its affairs, and for the transfer of its stock.

In what corporations to vest.

§ 2. The powers enumerated in the preceding section, shall vest in every corporation that shall hereafter be created, although they may not be specified in its charter, or in the act under which it shall be incorporated.

What other powers to be possessed.

§ 3. In addition to the powers enumerated in the first section of this Title, and to those expressly given in its charter, or in the act under which it is or shall be incorporated, no corporation shall possess or exercise any corporate powers, except such as shall be necessary to the exercise of the powers so enumerated and given.

Exercise of banking powers prohibited.

§ 4. No corporation created, or to be created, and not expressly incorporated for banking purposes, shall by any implication or construction, be deemed to possess the power of discounting bills, notes, or other evidences of debt, of receiving deposits, of buying gold and silver, bullion, or foreign coins, of buying and selling bills of exchange, or of issuing bills, notes, or other evidences of debt, upon loan, or for circulation as money.



Liability of stockholders.

§ 5. Where the whole capital of a corporation shall not have been paid in, and the capital paid, shall be insufficient to satisfy the claims of its creditors, each stockholder shall be bound to pay on each share held by him, the sum necessary to complete the amount of such share, as fixed by the charter of the company, or such proportion of that sum, as shall be required to satisfy the debts of the company.

Quorum.

§ 6. When the corporate powers of any corporation are directed by its charter to be exercised by any particular body, or number of persons, a majority of such body, or persons, if it be not otherwise provided in the charter, shall be a sufficient number to form a board for the transaction of business; and every decision of a majority of the persons duly assembled as a board, shall be valid as a corporate act.

Forfeiture for non-user.

§ 7. If any corporation hereafter created by the legislature, shall not organize and commence the transaction of its business within one year from the date of its incorporation, its corporate powers shall cease.

Reservation of power to repeal, &c.

§ 8. The charter of every corporation, that shall hereafter be granted by the legislature, shall be subject to alteration, suspension and repeal, in the discretion of the legislature.

Trustees in case of dissolution.

§ 9. Upon the dissolution of any corporation created or to be created, and unless other persons shall be appointed by the legislature, or by some court of competent authority, the directors or managers of the affairs of such corporation at the time of its dissolution, by whatever name they may be known in law, shall be the trustees of the creditors and stockholders of the corporation dissolved, and shall have full power

to settle the affairs of the corporation, collect and pay the outstanding debts, and divide among the stockholders the monies and other property that shall remain, after the payment of debts and necessary expenses.²⁷ TITLE 4

§ 10. The persons so constituted trustees, shall have authority to sue for and recover, the debts and property of the dissolved corporation, by the name of the trustees of such corporation, describing it by its corporate name, and shall be jointly and severally responsible to the creditors and stockholders of such corporation, to the extent of its property and effects that shall come into their hands.²⁸ Their powers

TITLE IV.

SPECIAL PROVISIONS RELATING TO CERTAIN CORPORATIONS.²⁹

- Sec. 1. Certain books of incorporated companies to be kept open, for certain time.
 2. Certain prohibitions and restrictions upon directors of corporations, officers, &c.
 3. Debts of corporations not to exceed certain amount ; penalty for excess.
 4. Certain transfers of property prohibited ; corporations dissolved in certain cases.
 5. Supreme court to correct illegal elections ; proceedings for that purpose.
 6. By-laws regulating elections ; evidence of right to vote.
 7. Oath to be taken by inspectors of elections.
 8. On failure to hold elections of directors, new day to be appointed ; proceedings.
 9. Penalty on corporations, &c. for purchasing their notes, &c. at less sum than that due thereon.
 10. Officers, &c. of corporations not to loan upon notes offered to them officially for discount.
 11. Extent and application of the provisions of this Title.

§ 1. The book or books of any incorporated company in this state, in which the transfer of stock in any such company shall be registered, and the books containing the names of the stockholders in any such company, shall, at all reasonable times during the usual hours of transacting business, be open to the examination of every stockholder of such company, for thirty days previous to any election of directors ; and if any officer having charge of such books, shall, upon demand by any stockholder as aforesaid, refuse or neglect to exhibit such books, or submit them to examination as aforesaid, he shall for every such offence, forfeit the sum of two hundred and fifty dollars, the one moiety thereof to the use of the people of this state, and the other moiety to him who will sue for the same, to be recovered by action of debt in any court of record, together with the costs of such suit.³⁰ Certain books to be open at certain times.

§ 2. It shall not be lawful for the directors or managers of any incorporated company in this state to make dividends, excepting from the surplus profits arising from the business of such corporation ; and it shall not be lawful for the directors of any such company to divide, withdraw, or in any way pay to the stockholders, or any of them, any part of the capital stock of such company, or to reduce the said capi- Dividends from surplus profits only. Capital not to be reduced.

(27) 1 R. L. 248, § 1. (28) *Ib.* 249, § 2. (29) This Title inserted pursuant to the "act concerning the Revised Statutes," passed December 10, 1828, § 15. (30) Laws of 1825, p. 448, § 1.

TITLE 4. tal stock, without the consent of the legislature; and it shall not be lawful for the directors of such company to discount or receive any note, or other evidence of debt, in payment of any instalment actually called in and required to be paid, or any part thereof, due or to become due on any stock in the said company; nor shall it be lawful for such directors to receive or discount any note, or other evidence of debt, with the intent of enabling any stockholder in such company to withdraw any part of the money paid in by him on his stock; and in case of any violation of the provisions of this section, the directors under whose administration the same may have happened, except those who may have caused their dissent therefrom to be entered at large on the minutes of the said directors at the time, or were not present when the same did happen, shall in their individual and private capacities, jointly and severally be liable to the said corporation, and to the creditors thereof in the event of its dissolution, to the full amount of the capital stock of the said company so divided, withdrawn, paid out, or reduced, and to the full amount of the notes or other evidences of debt so taken or discounted in payment of any stock, and to the full amount of any notes or other evidences of debt so discounted with the intent aforesaid, with legal interest on the said respective sums, from the time such liability accrued; and no statute of limitations shall be a bar to any suit at law or in equity, against such directors for any sums for which they are made liable by this section: *Provided*, That this section shall not be construed to prevent a division and distribution of the capital stock of such company which shall remain after the payment of all its debts, upon the dissolution of such company, or the expiration of its charter.³¹

§ 3. The total amount of the debts which any incorporated company shall at any time owe, whether for deposits, or by bond, bill, note, or other contract, over and above the actual deposits with the said company, shall not at any time exceed three times the amount of the capital stock actually paid in; and in case of any excess the directors under whose administration the same may have happened, except those who may have caused their dissent therefrom to be entered at large on the minutes of the said directors at the time, and except those who were not present when the same did happen, shall in their individual and private capacities, jointly and severally, be liable for such excess to the said corporation, and in the event of its dissolution, to any of the creditors thereof, to the full amount of such excess, with legal interest from the time such liability accrued; and no statute of limitations shall be a bar to any suit at law or in equity, against such directors for any sums of money for which they are made liable by this section.³²

Notes for instalments on stock, not to be discounted.

Nor notes to withdraw instalments paid.

Liability of directors for violating these provisions.

Extent of liability.

Not barred by statute of limitations.

Proviso.

Amount of debts.

Liability of directors for excess.

Not barred by statute of limitations.

§ 4. Whenever any incorporated company shall have refused the payment of any of its notes, or other evidences of debt, in specie, or lawful money of the United States, it shall not be lawful for such company, or any of its officers, to assign or transfer any of the property or choses in action of such company, to any officer or stockholder of such company, directly or indirectly for the payment of any debt; and it shall not be lawful to make any transfer or assignment in contemplation of the insolvency of such company, to any person or persons whatever; and every such transfer and assignment to such officer, stockholder or other person, or in trust for them or their benefit, shall be utterly void; and whenever any incorporated company shall have remained insolvent for one whole year, or for one year shall have neglected or refused to redeem its notes or other evidences of debt, in specie or other lawful money of the United States, or shall for one year have suspended the ordinary business of such incorporation, such company shall thereupon be deemed and adjudged to have surrendered the rights, privileges and franchises, granted by any act of incorporation, and shall be deemed to be dissolved.³³

TITLE 4
Certain transfers of property, prohibited.

Corporations deemed dissolved in certain cases.

§ 5. It shall be the duty of the supreme court, upon the application of any person or persons or body corporate, that may be aggrieved by, or may complain of, any election, or any proceeding, act or matter, in or touching the same, (reasonable notice having been given to the adverse party, or to those who are to be affected thereby, of such intended application,) to proceed forthwith and in a summary way, to hear the affidavits, proofs and allegations of the parties, or otherwise inquire into the matters or causes of complaint, and thereupon to establish the election so complained of, or to order a new election, or make such order and give such relief in the premises, as right and justice may appear to the said supreme court to require: *Provided*, That the said supreme court may, if the case shall appear to require it, either order an issue or issues to be made up in such manner and form as the supreme court may direct, in order to try the respective rights of the parties who may claim the same, to the office or offices or franchise in question; or may give leave to exhibit, or direct the attorney-general to exhibit, one or more information or informations in the nature of a quo warranto in the premises.³⁴

Powers of supreme court respecting elections.

Proceedings.

§ 6. No by-law of the directors and managers of any incorporated company, regulating the election of directors or officers of such company, shall be valid, unless the same shall have been published for at least two weeks in some newspaper in the county where such election shall be held, at least thirty days before such election; and in all cases where the right of voting upon any share or shares of the stock of any incorporated company of this state, shall be questioned,

Certain by-laws to be published.

Evidence of right to vote.

(33) Laws of 1825, p. 450, § 6. (34) Laws of 1825, p. 451, § 9, amended pursuant to the "act concerning the Revised Statutes," passed December 10, 1828, § 15.

TITLE 4 it shall be the duty of the inspectors of the elections, to require the transfer books of said company, as evidence of stock held in the said company; and all such shares as may appear standing thereon in the name of any person or persons, shall be voted on by such person or persons, directly by themselves, or by proxy, subject to the provisions of the act of incorporation.³⁶

Oath of inspectors of elections.

§ 7. The inspectors who may be appointed to conduct any election of directors or any other officer of any incorporated company of this state, shall be required, before entering on the duties of their appointment, to take or subscribe the following oath or affirmation: "I, A. B., do solemnly swear, [or affirm, as the case may be,] that I will execute the duties of an inspector for the election now to be held, with strict impartiality, and according to the best of my ability."³⁶

On failure of election, another day to be appointed.

§ 8. If at any time hereafter, the election for directors of any bank or other incorporated company of this state, shall not be duly held on the day designated and appointed by the act incorporating such bank or other incorporated company, it shall be the duty of the president and directors of such bank or other incorporated company, to notify and cause an election for directors to be held within sixty days immediately thereafter; and in all cases, no share or shares shall be voted upon, except by such person or persons who may have appeared on the transfer books of said company to have had the right to vote thereon, on the day when, by the act of incorporation of such company, the election ought to have been held; which said right so to vote shall be exercised by the persons so appearing as aforesaid upon the transfer books of such company, on any day when such election may be held.³⁷

Who entitled to vote on such subsequent day.

Corporation and its officers, &c. not to purchase its notes at a discount.

§ 9. It shall not be lawful in any company incorporated for banking purposes, its officers, agents or servants, or any of them, directly or indirectly to purchase, or to be interested in the purchase of any promissory note, or other evidence of debt, issued by any such company, at a less sum than appears by the face thereof to be due and payable; and any person offending against the provisions of this section, shall forfeit and pay three times the nominal amount of the note or other evidence of debt so purchased, to be recovered, with costs of suit, by any person who will sue for the same, in any court of competent jurisdiction.³⁸

Penalty.

Officers, &c. of corporations, not to loan upon certain notes.

§ 10. It shall not be lawful for any person being president, director, cashier, clerk, agent, or any way interested or concerned in the management of the concerns of any such company, to discount, or directly or indirectly make any loan upon any note, bill, or other evidence of debt, which shall have been offered to such directors for discount; and every note, bill, or other evidence of debt so discount-

Notes, &c. void.

ed, or upon which any loan shall have been made by any of the persons aforesaid, knowing that such note had been so offered and refused, shall be utterly void; and the person offending herein, knowing that such note had been so offered and refused, by making any discount or loan, shall, for every such offence, forfeit and pay to any person who will sue for the same, twice the amount of any such discount or loan, to be recovered by action of debt, with costs of suit, in any court of competent jurisdiction.³⁹

TITLE I.
Further penalty.

§ 11. The provisions of this Title shall not apply to any incorporated library, or religious society; nor to any monied corporation which shall have been or shall be created, or whose charter shall be renewed or extended, after the first day of January, one thousand eight hundred and twenty-eight, and which shall be subject to the provisions of the second Title of this Chapter.⁴⁰

CHAP. XIX.

Of the Computation of Time, of Weights and Measures, and the Money of Account.

TITLE 1.—Of the computation of time.

TITLE 2.—Of weights and measures.

TITLE 3.—Of the money of account.

TITLE I.

OF THE COMPUTATION OF TIME.

- Sec. 1. Time to continue to be computed according to Gregorian or new style.
2. What to be deemed leap years; such years to consist of 366 days.
3. Year, &c. defined; added day of leap year how to be computed.
4. Term "month" to mean calendar month, unless otherwise expressed.

SECTION 1. Time shall continue to be computed in this state, according to the Gregorian or new style; and the first day of January, in every year, which has happened, according to such style, since the year one thousand seven hundred and fifty-two, and which shall hereafter happen, shall be reckoned to be the first day of the year.

New style to be continued.

§ 2. For the purpose of preserving the method of reckoning and computing the days of the year, in the same regular course, as near as may be, in all future times, the several years one thousand nine hundred, two thousand one hundred, two thousand two hundred, two thousand three hundred, or any other future hundredth year, of which the year two thousand shall be the first, except only every fourth hundredth year, shall not be taken to be bissextile or leap years, but shall

Leap years.

(39) Laws of 1826, p. 452, § 16. (40) Eighteenth subdivision of § 15, of the "act concerning the Revised Statutes," passed December 10, 1823.

TITLE 2. be taken to be common years, consisting of three hundred and sixty-five days; and the years two thousand, two thousand four hundred, two thousand eight hundred, and every other fourth hundredth year, from the year two thousand inclusive, and also every fourth year, except as first above mentioned, which, by usage in this state, is considered to be a bissextile or leap year, shall be taken to be bissextile or leap years, consisting of three hundred and sixty-six days.

Year, &c. defined.

§ 3. Whenever the term "year," or "years," is or shall be used in any statute, deed, verbal or written contract, or any public or private instrument whatever, the year intended shall be taken to consist of three hundred and sixty-five days; a half year of one hundred and eighty-two days; and a quarter of a year of ninety-one days; and the added day of a leap year, and the day immediately preceding, if they shall occur in any period so to be computed, shall be reckoned together as one day.

Added day of leap year.

Construction of term "month."

§ 4. Whenever the term "month," or "months," is or shall be used in any statute, act, deed, verbal or written contract, or any public or private instrument whatever, it shall be construed to mean a calendar, and not a lunar month; unless otherwise expressed.

TITLE II.

OF WEIGHTS AND MEASURES.

- Sec. 1. But one standard of weights, &c. throughout the state.
 2 & 3. Standard yard established and precisely defined.
 4. Standard yard how to be prepared; how restored in case of loss.
 5. Yard to be divided into feet, inches, &c.
 6. Rod, pole or perch; furlong and mile defined.
 7. Acre how to be measured; its contents.
 8. Standard of weight to be the pound; definition of ounces.
 9. Standard pound how to be made; how restored in case of loss.
 10. Pound divided into ounces; definition thereof.
 11. Standard of measures of capacity, to be the gallon; definition thereof.
 12. Standard gallon how to be made; how restored in case of loss.
 13. All other measures of capacity to be derived from gallon.
 14. Definition of the standard bushel.
 15 & 16. Bushel to be the standard in heaped measure; how made and heaped.
 17. Dry commodities not heaped, how to be measured, &c.
 18. Future contracts to be construed in reference to standards herein established.
 19. How liquors paying duties to U. S. may be sold.
 20. Original standards where to be deposited.
 21, 22, & 23. Copies of standards to be made; how distributed and compared.
 24 & 25. Devices to be impressed on copies; how to be recorded.
 26. Town sealers to compare copies once in three years.
 27. Weights and measures when to be sealed and marked.
 28. Fees of sealers.
 29. Sealer resigning, &c. to deliver to successor all standards in his possession.
 30. Like delivery by representatives of sealer dying.
 31 & 32. If not delivered, successor to sue; rule of damages, &c.
 33. Liability of persons using weights, &c. not conformable to this Title.
 34. Surveyors to make oath to accuracy of chain used by them.
 35. Hundred weight and ton defined.
 36. Standard weight of certain grain established.

Sec. 37. Load of heaped measure in Kings, Queens, and Richmond.
38. Fees of measurers of grain.

TITLE 2

§ 1. There shall be but one standard of measure of length and surface, one of weight, and one of measure of capacity, throughout this state.¹ Weights, &c. to be uniform.

§ 2. The unit or standard measure of length and surface, from whence all other measures of extension, whether they be lineal, superficial, or solid, shall be derived and ascertained, shall be the yard, as used in this state on the fourth day of July, one thousand seven hundred and seventy-six.¹ Standard yard.

§ 3. For the precise definition of the said yard, and in order to its recovery in case of loss, it is declared (until the measure of the pendulum shall be transferred to some appropriate public building,) that such yard has been found, by experiments made with a pendulum, with a brass rod, at Columbia college, in the city of New-York, in the latitude of forty degrees, forty-two minutes, and forty-three seconds north, to bear to the pendulum of that place, vibrating seconds in a vacuum, at the temperature of melting ice, the proportion of one million, to one million eighty-six thousand one hundred and forty-one.¹

§ 4. The standard yard thus defined, shall be measured in a straight line between two points engraven upon golden disks, inserted into a straight brass rod; and in case the same shall be lost, or otherwise destroyed, defaced, or injured, it shall be restored according to the proportions mentioned in the preceding section, under the direction of the secretary of state, as state sealer of weights and measures.

§ 5. The yard shall be divided into three equal parts, called feet, and each foot into twelve equal parts, called inches; and for measures of cloths, and other commodities commonly sold by the yard, it may be divided into halves, quarters, eighths, and sixteenths. Division of yard.

§ 6. The rod, pole, or perch, shall contain five such yards and half; the furlong, two hundred and twenty such yards; and the mile, one thousand seven hundred and sixty such yards. a Rod, furlong and mile.

§ 7. The acre, for land measure, shall be measured horizontally, and shall be equal to a rectangle sixteen such perches in length, and ten in breadth, and shall contain one hundred and sixty square perches, or four thousand eight hundred and forty square yards; six hundred and forty such acres being contained in a square mile.² Contents of acre.

§ 8. The unit or standard of weight, from which all other weights shall be derived and ascertained, shall be the pound, of such magnitude, that the weight of a cubic foot of distilled water, at its maximum density, weighed in a vacuum with brass weights, shall be equal to sixty-two and a half such pounds. Standard pound defined.

- TITLE 2.**
lb. how made &c. § 9. Such standard pound weight shall be made of brass, and in case of loss, shall be restored by making a new standard, determined according to the proportions mentioned in the last section, under the direction of the state sealer of weights and measures.
- lb. divided into ounces.* § 10. The pound shall be divided into sixteen equal parts, called ounces, of which parts the cubic foot of distilled water, under the same circumstances, mentioned in the eighth section, shall weigh one thousand.
- Standard gallon defined.* § 11. The unit or standard of measures of capacity, as well for liquids, as for dry commodities, not measured by heaped measure, from which all other measures of capacity shall be derived and ascertained, shall be the gallon, which shall be a vessel of such capacity, as to contain, at the mean pressure of the atmosphere, at the level of the sea, ten pounds of distilled water, at its maximum density.
- lb. how made, &c.* § 12. Such standard gallon shall be made of brass, and in case of loss, shall be restored according to the proportions mentioned in the last section, under the direction of the state sealer of weights and measures.
- Other measures of capacity.* § 13. All other measures of capacity shall be derived from the gallon, by continual multiplication or division by the number two, being in the descending scale, half gallons, quarts, pints, half pints, and gills; and in the ascending scale, pecks, half bushels, and bushels.
- Bushel defined.* § 14. The bushel shall contain, at the mean pressure of the atmosphere, at the level of the sea, eighty pounds of distilled water, at its maximum density.
- Heaped measure.* § 15. The standard measure of capacity for coal, ashes, marl, manure, Indian corn in the ear, fruit and roots of every kind, and for all other commodities, commonly sold by heaped measure, shall be the aforesaid bushel; and the measures used to measure such commodities, shall be made round, with a plain and even bottom, and shall be of the following diameters at top, measured from outside to outside: the bushel, nineteen and a half inches; the half bushel, fifteen and a half inches; and the peck, twelve and a third inches.
- lb.* § 16. All commodities sold by heaped measure, shall be duly heaped up in the form of a cone, the outside of the measure by which the same shall be measured, to be the extremity of the base of such cone, and such cone to be as high, as the articles to be measured, will admit.
- Dry articles not heaped.* § 17. The measures used for measuring dry commodities not heaped, shall be stricken with a round stick or roller, straight, and of the same diameter from end to end.
- Future contracts how construed.* § 18. All contracts hereafter to be executed, made within this state, for any work to be done, or for any thing to be sold, delivered, done, or agreed for, by weight or measure, shall be taken and con-

strued, to be made according to the standard weight and measures thus ascertained. TITLE 2.

§ 19. Nothing contained in the present Title shall prevent the sale of liquors and wines, paying duties to the government of the United States, by the measures of capacity used in its custom-houses, while in the original casks or other vessels in which the same were imported. Liquors paying duties to U. S.

§ 20. The original standards, which shall be made in conformity to the provisions of this Title, shall be deposited in the office of the state sealer in a chest, under three locks, whereof the keys shall be kept by the chancellor, the chief justice, and the state sealer for the time being; which chest shall only be opened in the presence of two of such officers, for the sole purpose of comparing such standards with the copies herein after described; unless by a joint resolution of the two houses of the legislature, or on the call of either house for information, or by order of the governor for scientific purposes. Original standards.

§ 21. Copies of the said original standards, to be made of such materials as the state sealer shall direct, shall be deposited by him in the offices of the clerks of the supreme court at New-York, Albany and Utica, in chests under two locks, whereof the keys shall be kept by a judge and the clerk of the court; which chests shall only be opened in the presence of such judge, for the purpose of comparing such copies with the copies herein after directed to be deposited with the county clerks for general use; unless by a joint resolution of the two houses of the legislature, or on the call of either house for information, or by order of the governor for scientific purposes. Copies thereof how disposed of.

§ 22. Copies of such original standards for general use, to be made of such materials as the state sealer shall direct, shall be deposited by him, in the offices of the assistant state sealers, the sealer of the city and county of New-York, and the several county sealers, who shall severally be responsible for the preservation of the copies respectively delivered to them, and shall cause them to be compared, once every five years, with the copies existing in the offices of the clerks of the supreme court.

§ 23. Like copies of such original standards, shall be transmitted by the state sealer, to the several county sealers, to be furnished by them to the town sealers in their respective counties, at the expense of the towns. Do.

§ 24. The state sealer shall cause to be impressed on each of the copies of such original standards, the letters N. Y. and such other additional device, as he shall direct for the particular county; which device shall be recorded in the secretary's office, and a copy thereof delivered to the respective county sealers. Devices on county copies.

TITLE 2.

 DEVICES ON
 TOWN COPIES.

§ 25. The several county sealers of weights and measures, except in the city and county of New-York, shall furnish the town sealer of each town, in their respective counties, with copies of such standards at the expense of the town, on which the county sealer shall impress, in addition to the state device and the county device, such other device, as the board of supervisors shall direct, for the several towns in the county; which town device shall be recorded in the clerk's office of the county.

Town copies
 to be com-
 pared.

§ 26. It shall be the duty of the town sealers of weights and measures, to compare such copies once in every three years, with those existing in the office of the county sealer.²

Weights, &c.
 how sealed
 and marked.

§ 27. The several assistant state sealers, the sealer of the city and county of New-York, the county sealers, and town sealers, shall compare all weights and measures, which shall be brought to them for that purpose, with the above mentioned copies of such standards in their possession; and when the same are found or made by him to conform to the legal standard, the officer comparing them, shall seal and mark such weights and measures.⁴

Fees of seal-
 ers.

§ 28. Each sealer shall be entitled to receive for his services, at and after the following rates:

For sealing and marking every beam, twelve and a half cents:

For sealing and marking measures of extension, at the rate of twelve and a half cents per yard, not to exceed fifty cents for any one measure.

For sealing and marking every weight, three cents:

For sealing and marking liquid and dry measures, if the same be of the capacity of a gallon, or more, twelve and a half cents; if of less than a gallon, three cents. He shall also be entitled to a reasonable compensation for making such weights and measures conform to the standard established by this Title.⁴

Sealer resign-
 ing, &c. to
 deliver stand-
 ards.

§ 29. Whenever either of the assistant state sealers shall resign, be removed from office, or remove from the city of Albany or the county of Oneida; or whenever any city, county, or town sealer shall resign, be removed from office, or remove from the city, county or town for which he shall have been appointed or elected, it shall be the duty of the person so resigning, removed or removing, to deliver to his successor in office, all the standard beams, weights and measures in his possession.

If sealer dy-
 ing, &c.

§ 30. In case of the death of any such sealer of weights and measures, his representatives shall, in like manner, deliver to his successor in office, such beams, weights and measures.⁵

Penalty for
 neglect.

§ 31. In case of refusal or neglect to deliver such standards entire and complete, the successor in office may maintain an action on the

case against the person or persons so refusing or neglecting, and recover double the value of such standards as shall not have been delivered. And in every such action, in which judgment shall be rendered for the plaintiff, he shall recover double costs.⁶

TITLE 3.

§ 32. One moiety of the damages recovered in every such action shall be retained by the person recovering; and the other shall be by him applied to the purchase of such standards, as may be required in his office.⁶

Damages how applied.

§ 33. If any person or persons shall hereafter use any weights, measures, or beams, in weighing or measuring, which shall not be conformable to the standards of this state, established in this Title, whereby any purchaser of any commodity or article of trade or traffic, shall be injured or defrauded, such purchaser may maintain an action on the case against the offender; and if judgment shall be rendered for the plaintiff, he shall recover treble damages, with costs of suit.⁷

Using weights, &c. not conformable to this Title.

§ 34. No surveyor shall give evidence in any cause depending in any of the courts of this state, or before arbitrators, respecting the survey or measurement of lands, unless such surveyor shall make oath, if required, that the chain or measure used by him, was conformable to the standards of this state, established by law at the time such survey was made.⁸

Surveyors to make oath.

§ 35. The hundred weight shall consist of one hundred pounds avordupois, and twenty such hundreds, shall constitute a ton.

Hundred weight and ton.

§ 36. Whenever wheat, rye, or Indian corn shall be sold by the bushel, and no special agreement as to the measurement or weight thereof, shall be made by the parties, the bushel shall consist of sixty pounds of wheat, and of fifty-six pounds of rye, or Indian corn.⁹

Standard weight of grain.

§ 37. In the counties of Kings, Queens and Richmond, fourteen bushels of heaped measure, shall be estimated to make a load.¹⁰

"Load" in Kings, &c.

§ 38. The several measurers of grain shall be entitled to receive for measuring flaxseed, wheat, rye, corn, buckwheat, or any other article commonly sold by the bushel, one half cent per bushel and no more; the one half to be paid by the buyer and the other half by the seller.¹¹

Fees of measurers.

TITLE III.

OF THE MONEY OF ACCOUNT.

Sec. 1. Public accounts to be kept in money of account of United States.

2. Judgments, &c. to be in dollars and cents; omission of fractions not erroneous.

§ 1. All accounts and other computations of money in the treasury and other public offices, whether state or local, and all accounts aris-

Currency of U.S. adopted

(6) 1 R. L. 377, § 11. (7) *Ib.* § 12. (8) *Ib.* § 10. (9) 2 R. L. 324, § 13. (10) *Laws of 1821, p. 28, § 3.* (11) 1 R. L. 182, § 3.

TITLE 2. ing from proceedings in courts of justice, shall be kept and made out, in the money of account of the United States, that is to say : in dollars or units, dimes or tenths, cents or hundredths, mills or thousandths ; a dime being the tenth part of a dollar, a cent the hundredth part of a dollar, and a mill the thousandth part of a dollar.¹²

Some in
judgments
and decrees.

§ 2. In all judgments or decrees rendered by any court of justice, for any debt, damages or costs, and in all executions issued thereon, the amount shall be computed, as near as may be, in dollars and cents, rejecting lesser fractions ; and no judgment, or other proceeding, shall be considered erroneous for such omissions.¹²

CHAP. XX.

Of the Internal Police of this State.

- TITLE 1.**—Of the relief and support of indigent persons.
TITLE 2.—Of beggars and vagrants.
TITLE 3.—Of the safe keeping and care of lunatics.
TITLE 4.—Of the care of habitual drunkards.
TITLE 5.—Of disorderly persons.
TITLE 6.—Of the support of bastards.
TITLE 7.—Of the importation into this state of persons held in slavery, of their exportation, of their services, and prohibiting their sale.
TITLE 8.—Of the prevention and punishment of immorality, and disorderly practices.
TITLE 9.—Of excise, and the regulation of taverns and groceries.
TITLE 10.—Of the navigation of rivers and lakes, and the obstruction of certain waters.
TITLE 11.—Of fisheries generally, and particularly in Hudson river, and at and below the city of New-York.
TITLE 12.—Of wrecks.
TITLE 13.—Of the law of the road, and the regulation of public stages.
TITLE 14.—Of the firing of woods.
TITLE 15.—Of the embezzlement of timber floating.
TITLE 16.—Of the preservation of deer and certain game and animals.
TITLE 17.—Of dogs.
TITLE 18.—Of the destruction of wolves, and other noxious animals.
TITLE 19.—Of brokerage, stock-jobbing, and pawn-brokers.
TITLE 20.—Of unauthorised banking, and the circulation of certain notes or evidences of debt issued by banks.
TITLE 21.—Of insurances on property in this state made in foreign countries, and by individuals and associations unauthorised by law.

TITLE I.

TITLE I.

OF THE RELIEF AND SUPPORT OF INDIGENT PERSONS.

- Sec. 1.** Certain relatives of a pauper being able, bound to support him.
- 2.** Upon their failure, overseers to apply to general sessions; previous notice, &c.
- 3.** Court to determine which relatives shall support pauper, and the sum to be paid.
- 4.** And how to contribute in proportion to ability.
- 5.** Order may be for certain time, or indefinite, and may be varied.
- 6.** Costs; payment of and obedience to order, how enforced.
- 7.** Relatives disobeying order, liable to action by overseers.
- 8.** Cases in which property of father, &c. absconding, may be seized.
- 9.** Effect of warrant of seizure; overseers to return inventory, &c.
- 10.** Powers of general sessions thereupon.
- 11.** In what cases warrant may be discharged by two justices.
- 12.** Powers and duties of overseers respecting property seized.
- 13.** Authority of county superintendents, in counties where poor are county charge.
- 14.** Who shall be relieved as poor persons.
- 15.** County superintendents of the poor to be appointed; oath, compensation, &c.
- 16.** To be a corporation; their powers and duties enumerated.
- 17.** County poor-houses may be erected; expense limited; how collected.
- 18.** Superintendents of county poor-houses, to be county superintendents of the poor.
- 19.** In certain counties, excise money to be paid to county treasurers.
- 20.** Also monies collected from relatives of paupers; penalties, &c.
- 21.** When all paupers made a county charge, notice to be given, &c.
- 22.** Application of excise money and penalties, in other counties.
- 23.** In Warren, Washington, Saratoga and Genesee, poor to be a county charge.
- 24.** In all other counties, supervisors may declare poor a county charge.
- 25.** Copy of resolution to be served on clerks of cities, towns and villages.
- 26.** In such case, excise money and penalties to be paid to county treasurer.
- 27.** Payment enforced by suit by county treasurer.
- 28.** In other counties than those before specified, poor how to be supported.
- 29.** Settlements how gained. Minors how to gain settlement.
- 30.** Certain residences not to give settlement.
- 31.** Paupers not to be removed; how supported.
- 32 & 33.** Proceedings to determine in what town pauper is settled; costs thereof.
- 34.** Town chargeable with pauper, to support him; how compelled.
- 35.** County paupers, proceedings to ascertain who are such.
- 36 & 37.** Proceedings where there are no county poor-houses.
- 38.** Decisions of superintendents, how to be entered and filed; their effect.
- 39.** Provisions for relief to paupers in counties where there are poor-houses.
- 40.** Expense of removal and temporary support, how allowed and paid.
- 41.** Paupers sent to county poor-house, how supported; when discharged.
- 42.** Proceedings when pauper cannot be removed to county poor-house.
- 43 & 44.** Relief how afforded to paupers in counties not having poor-houses.
- 45.** If pauper has no legal settlement in the county, notice to be given, &c.
- 46.** County poor how supported in counties not having poor-houses.
- 47.** County treasurer to keep accounts with towns liable to support their poor.
- 48.** Superintendents to state charges against such towns for the support of their poor.
- 49.** Accounts to be laid before supervisors; balances against towns how collected.
- 50.** Sums necessary to support county poor, how raised and kept.
- 51.** Accounts to be kept by overseers of the poor in counties not having poor-houses.
- 52.** When to be submitted to town auditors; how audited and settled.
- 53.** Penalty for neglect to present books and render accounts.
- 54.** Overseers' accounts and estimates to be exhibited at town-meeting.
- 55.** Money for support of town poor, how ascertained, raised, and to whom to be paid.
- 56.** Accounts in certain cities, to whom exhibited; monies how raised.
- 57.** Accounts of overseers and justices, for services, how audited and paid.
- 58.** Penalty for removing, &c. paupers, with intent to charge any city, town or county.
- 59.** Pauper removed, how supported; notice of removal, &c. to be given.
- 60.** Officers receiving notice, to take pauper, or deny their liability.
- 61.** Consequence of neglect.
- 62.** Upon denial being made, suit to be brought; consequence of neglect.
- 63.** Penalty on superintendents for neglect to render accounts or pay over monies.
- 64.** Penalty for bringing into this state paupers or lunatics, without a protector.
- 65.** Penalties when collected, how to be applied; to whom to be paid.

TITLE 1. SEC. 66. Duty of overseers to prosecute for penalties directed to be collected by them.

- 67, 68 & 69. Allowance for costs and daily pay for attending to suits.
 70. Paupers now maintained by a county or several towns, to continue.
 71. Town poor-houses erected by one or more towns, may be continued.
 72. Poor-houses, &c. exempt from taxes; keepers exempt from militia service, &c.
 73. Provision for support of idiots and lunatics out of county poor-house.
 74. Application of poor monies of any town, that are invested.
 75. County superintendents to report annually to secretary of state.
 76. Supervisors of towns supporting their own poor, to report to clerk of supervisors.
 77. Clerk of supervisors to deliver abstracts of reports to superintendents.
 78. Penalty for neglect to report, and for false report; how collected.
 79. Secretary of state to lay abstract of reports before the legislature.

Paupers to be supported by relatives.

SECTION 1. The father, mother, and children, who are of sufficient ability, of any poor person who is blind, old, lame, impotent or decrepit, so as to be unable by work to maintain himself, shall, at their own charge, relieve and maintain such poor person, in such manner as shall be approved by the overseers of the poor of the town where such poor person may be.¹

How compelled.

§ 2. Upon any failure of any such relative so to relieve and maintain any such poor person, it shall be the duty of the overseers of the poor of the town where such poor person may be, to apply to the court of general sessions of the peace of the county where such relative may dwell, for an order to compel such relief; of which application, at least fourteen days' notice, in writing, shall be given, by serving the same personally, or by leaving the same at the last place of dwelling of the individual to whom the same may be directed, in case of his absence therefrom, with some person of mature age.¹

Powers of court.

§ 3. The court to which the said application may be made, shall proceed in a summary way to hear the allegations and proofs of the parties, and shall order such of the relatives aforesaid of such poor person as appear to be of sufficient ability, to relieve and maintain such person, and shall therein specify the sum which will be sufficient for the support of such poor person, to be paid weekly. And the said court shall therein direct the relative or relatives, who shall perform that duty, in the following order: The father shall be first required to maintain such poor person; if there be none, or he be not of sufficient ability, then the children of such poor person: if there be none, or they be not of sufficient ability, then the mother.¹

Th. Proportions.

§ 4. If it shall appear that any such relative is unable wholly to maintain such poor person, but is able to contribute towards his support, the court may, in its discretion, direct two or more relatives, of different degrees, to maintain such poor person, and shall prescribe the proportion which each shall contribute for that purpose; and if it shall appear that the relatives liable as aforesaid, are not of sufficient ability wholly to maintain such poor person, but are able to contribute something, the court shall direct the sum, in proportion to their ability, which such relatives shall pay weekly for that purpose.

§ 5. Such order may specify the time during which the relatives aforesaid shall maintain such poor person, or during which any of the said sums so directed by the court shall be paid, or it may be indefinite, and until the further order of the court. The court may from time to time, vary such order, whenever circumstances shall require it, on the application, either of any relative affected thereby, or of any overseers of the poor of the town, upon fourteen days' notice being given.

TITLE 1.
Order of court.

§ 6. The costs and expenses of such application, shall be ascertained by the court, and paid by the relatives against whom any order may be made; and the payment thereof, and obedience to the order of maintenance, and to any order for the payment of money, may be enforced by process of attachment.

How enforced; costs.

§ 7. If any relative who shall have been required, by such order, to relieve or maintain any poor person, shall neglect to do so, in such manner as shall be approved by the overseers of the poor of the town where such poor person may be, and shall neglect to pay to such overseers weekly the sum prescribed by the court for the support of such poor person, the said overseers may maintain an action, as for monies had and received, against such relative, and shall recover therein the sum so prescribed by the said court for every week the said order shall have been disobeyed, up to the time of such recovery, with costs of suit, for the use of the poor.²

Suits by overseers.

§ 8. Whenever the father, or mother being a widow or living separate from her husband, shall abscond from their children, or a husband from his wife, leaving any of them chargeable or likely to become chargeable upon the public for their support, the overseers of the poor of the town where such wife or children may be, may apply to any two justices of the peace of any county in which any estate, real or personal, of the said father, mother, or husband, may be situated, for a warrant to seize the same. Upon due proof of the facts aforesaid, the said justices shall issue their warrant, authorising the said overseers to take and seize the goods, chattels, effects, things in action, and the lands and tenements of the person so absconding.³

Father, &c. absconding.

§ 9. By virtue of such warrant, the said overseers may seize and take the said property, wherever the same may be found, in the same county; and shall be vested with all the right and title to the said property, which the person so absconding had, at the time of his or her departure. All sales and transfers of any personal property left in the county from which such person absconded, made by him, after the issuing of such warrant, whether in payment of an antecedent debt, or for a new consideration, shall be absolutely void. The overseers shall immediately make an inventory of the property so seized by them, and return the same, together with their proceedings, to the

Effect of warrant.

Duty of overseers.

(2) 1 R. L. 238, § 21; Laws of 1821, p. 114, § 4. (3) 1 R. L. 238, § 22.

TITLE I. next court of general sessions of the peace of the county where such overseers reside, there to be filed.⁴

Proceedings,
by general
sessions.

§ 10. The said court, upon inquiring into the facts and circumstances of the case, may confirm the said warrant and seizure, or may discharge the same; and if the same be confirmed, shall, from time to time, direct what part of the personal property shall be sold, and how much of the proceeds of such sale, and of the rents and profits of the real estate, if any, shall be applied towards the maintenance of the children or wife of the person so absconding.⁴

Warrant,
when justice
may dis-
charge.

§ 11. If the party against whom such warrant shall issue, return and support the wife or children so abandoned, or give security satisfactory to any two justices of the town, to the overseers of the poor of the town, that the wife or children so abandoned shall not become, or thereafter be, chargeable to the town or county, then such warrant shall be discharged, by an order of such justices, and the property taken by virtue thereof, shall be restored to such party.

Powers and
duties of
overseers.

§ 12. The overseers shall sell at public vendue, the property so ordered to be sold, and shall receive the rents and profits of the real estate of the person so absconding, and in those towns which are required to support their own poor, the overseers shall apply the same to the maintaining, bringing up and providing for the wife, child, or children so left and abandoned, and for that purpose shall draw on the county treasurer for the said proceeds, as herein after directed. They shall account to the court of general sessions of the peace, for all monies so received by them, and for the application thereof, from time to time, and may be compelled, by the said court, to render such account at any time.⁴

Ib. of county
superinten-
dents.

§ 13. In those counties where all the poor are a charge upon the county, the superintendents of the poor shall be vested with the same powers, rights and authority, as are herein before given to the overseers of the poor of any town, in respect to compelling relatives to maintain paupers, and in respect to the seizure of the property of any parent absconding and abandoning his or her family, and shall be entitled to the like actions and remedies in their names, and shall perform the duties herein before required of overseers, and subject to the same obligations and control.

Paupers to be
relieved.

§ 14. Every poor person who is blind, lame, old, sick, impotent, or decrepit, or in any other way disabled, or enfeebled, so as to be unable by his work to maintain himself, shall be maintained by the county or town in which he may be, according to the following provisions.

County su-
perintendents
to be appoint-
ed.

§ 15. It shall be the duty of the boards of supervisors within the several counties of this state, except the county of New-York; within one year after this Title becomes a law, to appoint not less than

three, or more than five, discreet freeholders of their respective counties, to be superintendents of the poor within such county, who shall hold their offices for one year, and until others shall be appointed in their places, and who shall take the oath prescribed in the constitution. A majority of the persons so appointed shall be at all times competent to transact business, and to execute any powers vested in the board of superintendents. They shall be allowed such sum for their actual attendance and services, as the board of supervisors of their county shall deem reasonable.⁵

TITLE 1

§ 16. They shall be a corporation by the name of the Superintendents of the Poor of the county for which they shall be appointed, and shall possess the usual powers of a corporation for public purposes: they shall meet as often as the supervisors of the county shall direct, at the county poor-house, if there be one, or at the place of holding courts in their county, or at one of the places of holding courts, if there be more than one, and at such other times and places as they shall think expedient: they shall have a general superintendence and care of the county poor who may be in their respective counties; and shall have power, and it shall be their duty,

To be a corporation: powers and duties.

1. To provide suitable places for the keeping of such poor, when so directed by the supervisors of any county, where houses for that purpose have not been erected by the county; and for that purpose, to rent a tenement or tenements, and land not exceeding fifty acres, and to cause the poor of the county to be maintained in such places: To provide places, &c.
2. To establish and ordain prudential rules, regulations and by-laws, for the government and good order of such places so provided, and of the county poor-houses, and for the employment, relief, management and government of the persons therein placed; but such rules and regulations shall not be valid, until sanctioned by a majority of the judges of the county courts of such county, in writing: To make rules, &c.
3. To employ suitable persons to be keepers of such houses or places, and all necessary officers and servants, and to vest such powers in them for the government of such houses as shall be necessary, reserving to the paupers who may be placed under the care of such keepers, the right of appeal to the superintendents: To employ keepers, &c.
4. In the counties where a poor-house is erected, or other place provided for the poor, to purchase the furniture, implements, and materials that shall be necessary from time to time for the maintenance of the poor therein, and their employment in labor or manufactures, and to sell and dispose of the proceeds of such labor as they shall deem expedient: To purchase materials, &c.
5. To prescribe the rate of allowance to be made to any persons for bringing paupers to the county poor-house or place provided for Allowance for bringing paupers, &c.

(5) Laws of 1824, p. 382.

TITLE I. the poor, subject to such alterations as the board of supervisors may, by a general resolution, make :

To provide of such allowances.

6. To authorise the keepers of such houses or places so provided, to certify the amount due to any person for bringing such paupers; which amount shall be paid by the county treasurer, on the production of such certificate, countersigned and allowed by any two superintendents :

To decide disputes respecting settlements.

7. To decide any dispute that shall arise concerning the settlement of any poor person, summarily, upon a hearing of the parties; and for that purpose, to issue subpoenas to compel the attendance of witnesses, and to administer oaths to them in the same manner, with the like power to enforce such process as is given to justices of the peace in any matter cognizable by them: their decisions shall be filed in the office of the county clerk within thirty days after they are made, and shall be conclusive and final upon all parties interested :

To direct and commence suits.

8. To direct the commencement of suits by any overseers of the poor who shall be entitled to prosecute for any penalties, or upon any recognizances, bonds, or securities taken for the indemnity of any town or of the county; and in case of the neglect of any such overseer, to commence and conduct such suits, without the authority of such overseers, in their names :

To draw on county treasurer.

9. To draw from time to time on the county treasurer for all necessary expenses incurred in the discharge of their duties, which drafts shall be paid by him out of the monies placed in his hands for the support of the poor :

To account.

10. To render to the board of supervisors of their county, at their annual meeting, an account of all monies received and expended by them, or under their direction, and of all their proceedings :

To pay over monies.

11. To pay over all monies remaining in their hands, within fifteen days after the expiration of their office, to the county treasurer, or to their successors.⁶

County poor-houses.

§ 17. The board of supervisors of any county in this state, in which a county poor-house is not already erected, may, at any annual or special meeting thereof, determine to erect such house for the reception of the poor of their county; and upon filing such determination with the clerk of the county, they may direct the superintendents of the poor of such county to purchase one or more tracts of land not exceeding two hundred acres, and to erect thereon one or more suitable buildings for the purpose aforesaid. To defray the expenses of such purchase and buildings, the said board may raise by tax on the real and personal estate of the inhabitants of the same county, a sum not exceeding seven thousand dollars, by such instalments and at such times as they may judge expedient. The said tax shall be raised, assessed and collected in the same manner as the other county charges,

Expense limited.

and shall be paid by the county treasurer to the superintendents of the poor of the county, to be applied in defraying the expenses aforesaid.⁷

TITLE I.

§ 18. The superintendents of county poor-houses, that have been erected, or shall be erected pursuant to any law, shall be superintendents of the poor of their counties respectively, and shall possess all the powers and be subject to all the regulations herein before specified in relation to such superintendents.

Superintendents of county poor-houses.

§ 19. All monies which shall be received by the commissioners of excise in any town or city, of any county in which the supervisors shall have determined to abolish the distinction between town poor and county poor, shall be by them paid over to the county treasurer, within thirty days after the receipt thereof; and they shall at the same time deliver a certified copy of the resolutions of the board of excise, by which the sum to be paid for licenses by grocers, tavern-keepers or others, shall be fixed. Any commissioner of excise neglecting the said duty, or any part thereof, shall forfeit fifty dollars, to be recovered by and in the name of the superintendents of the poor of the county; and shall also be liable to an action by and in the name of the county treasurer, for all monies received by them, with the interest thereon from the time the same should have been paid over.

Excise money, when to be paid to county treasurer.

Penalty.

§ 20. All monies which shall be collected by overseers of the poor of any town in a county where the poor are all a county charge, from the relatives of any poor person bound to contribute to his support; or from the sale of any personal property, or the rents and profits of the real property, of any person who shall abscond, leaving a wife or children; or received for any fines, penalties or forfeitures, which by law are directed to be applied to the support of the poor; or collected on any bond or other security that shall be given for the benefit or indemnity of any town, or of the overseers or inhabitants of such town; and all other monies which shall be received by such overseers in their official capacity, shall be by them paid over within thirty days after the receipt of the same, to the county treasurer, for the benefit of the poor; and if not so paid, the same may be recovered in an action to be brought by and in the name of the county treasurer, with interest, at the rate of ten dollars on the hundred, for a year, from the time the same should have been paid.

Also all other monies received by overseers.

Penalty.

§ 21. In those counties where the supervisors shall determine to abolish the distinction between town poor and county poor, and to have all the poor a county charge, it shall be the duty of the clerk of the board of supervisors, immediately to serve notice of such determination on the overseers of the poor of every town in the county. Within three months after the service of such notice, the overseers of the poor of every town, shall pay over all monies which shall remain

Notice of determination of supervisors, &c.

TITLE 1 in their hands, after discharging all demands against them as such overseers, to the county treasurer, to be applied by him towards the future taxes of such town. In case of neglect to pay over such monies, the county treasurer may maintain an action therefor, in which he shall recover interest on the monies withheld, from the time they should have been paid over.

Excise money, &c. in other counties.

§ 22. In those counties in which the distinction between county poor and town poor prevails, the excise money collected in any town, and all penalties given by law to the overseers of the poor, when received, shall be applied to the use of the poor of the town in which such money and penalties shall be collected.⁸

Poor to be a county charge in certain counties.

§ 23. In the counties of Warren, Washington, Saratoga, and Genesee, poor persons entitled to support as aforesaid, shall be maintained at the expense of the said counties respectively; and all costs and charges attending the examinations, conveyance, support, and necessary expenses of paupers within the said counties respectively, shall be a charge upon the said counties, without reference to the number or expense of paupers which may be sent to the poor-house of said counties, from or by any of the towns therein. The said charges and expenses shall be reported by the superintendents of the poor of the said counties, to the boards of supervisors therein respectively, and shall be assessed, levied and collected of and upon the taxable real and personal estate in the said counties, in the same manner as other county charges.⁹

When to become so in other counties.

§ 24. The board of supervisors of any county in this state, at any annual meeting, or at any special meeting called for that purpose, may determine to abolish all distinction between county poor and town poor in their counties respectively, and to have the expense of maintaining all the poor a county charge; and upon their filing such determination, duly certified by the clerk of the board, with the county clerk, the said poor shall be maintained, and the expense thereof defrayed in the manner prescribed in the preceding section relative to the counties of Warren, Washington, Saratoga and Genesee.⁹

Notice to be given.

§ 25. When the supervisors of any county shall have determined to abolish the distinction between county poor and town poor, the clerk of the board shall serve a copy of the resolution making such determination, upon the clerk of each town, village or city, within such county.¹⁰

Excise money, &c. to be paid to county treasurer.

§ 26. After such resolution shall be served, it shall be the duty of the commissioners of excise in the several towns of such county, and of the officers of every city and village therein, to pay over to the treasurer of the county all monies which shall thereafter be received for licenses to tavern-keepers, retailers or grocers, and all monies

(8) Laws of 1828, p. 170, § 6. (9) Laws of 1827, p. 195; 1826, p. 134. (10) Laws of 1828, p. 170, § 3, 4, & 5.

which shall be recovered as penalties for violating the excise laws, or any other laws, and which are directed to be paid to the overseers of the poor.¹¹ TITLE I.

§ 27. If any person having in his hands any monies directed to be paid to the county treasurer by the preceding section, shall neglect or refuse to pay the same within thirty days after demand thereof, the county treasurer may maintain an action in his name of office for the recovery thereof, together with interest from the time of such demand.¹¹ Payment how compelled.

§ 28. In all the other counties of this state, except the counties of Warren, Washington, Saratoga, Genesee, and those counties of which the board of supervisors shall file the determination aforesaid, the poor having a settlement in any town in such county, shall be supported at the expense of such town, and the poor not having such settlement shall be supported by the county in which they may be. Poor of other counties, how supported.

§ 29. Every person of full age, who shall be a resident and inhabitant of any town for one year, and the members of his family who shall not have gained a separate settlement, shall be deemed settled in such town. A minor may be emancipated from his or her father, and may gain a settlement, Settlements how gained.

1. If a female, by being married and living for one year with her husband, in which case the husband's settlement shall determine that of the wife: Minors.

2. If a male, by being married and residing for one year separately from the family of his father:

3. By being bound as an apprentice, and serving one year by virtue of such indentures:

4. By being hired and actually serving for one year for wages to be paid to such minor. A woman of full age, by marrying, shall acquire the settlement of her husband, if he have any. And until a poor person shall have gained a settlement in his own right, his settlement shall be deemed that of his father or mother; but no child born in any place used and occupied as a residence for the poor of any town, city or county, shall gain any settlement merely by reason of the place of such birth; nor shall any child born while the mother is a county pauper, gain any settlement by reason of the place of its birth. Married women.

§ 30. But no residence of any person as a pauper, in the county poor-house, or place provided for the support of the poor, or in any town while supported at the expense of any other town or county, shall operate to give such pauper a settlement in the town where such actual residence may be had. Qualification of last section

(11) Laws of 1823, p. 170, § 2, 4, & 5.

TITLE I.

Decisions of
superintend-
ents, their
effect, &c.

§ 38. The decisions of the board of county superintendents, in relation to the settlement of any paupers, or to their being a charge upon the county, shall be entered in books to be provided for that purpose, and certified by the signatures of such of the said superintendents as make such decisions; and a duplicate thereof, certified in the same manner, shall be filed in the county clerk's office within thirty days after the making of any such decision. Such original duplicate, or a copy thereof duly certified, shall be conclusive evidence of the facts therein contained.

Relief to pau-
pers in coun-
ties having
poor-houses.

§ 39. When any person shall apply for relief to any overseer of the poor, in any county where a poor-house is established, or other place provided for the reception of the poor, such overseers shall inquire into the state and circumstances of the applicant. If it shall appear that the applicant is in such indigent circumstances as to require permanent relief and support, and can be safely removed, the overseers shall, by a written order, cause the poor person to be removed to the county poor-house, or to the place provided as aforesaid, to be relieved and provided for as the necessities of such applicant may require. If the said county be one of those where the respective towns are required to support their own poor, the overseers shall designate in such order of removal whether the pauper be chargeable to the county or not; and if no such designation be made, such pauper shall be deemed to belong to the town whose overseers made such order.

Expense of
removal and
temporary
support.

§ 40. The expense of such removal shall be paid on the certificate of the keeper of the poor-house, or other place, countersigned as aforesaid, at the rate that shall have been prescribed by the superintendents; and the overseers shall be allowed such sum as may have been necessarily paid out or contracted to be paid, for the relief or support of such pauper previous to the said removal, as the superintendents shall judge was reasonably expended while it was improper to remove such pauper, which sum shall be paid by the county treasurer on the order of the superintendents, and shall be charged to the county, if such pauper be a county charge, or to the town sending him, if he be not a county charge.

How support-
ed and when
to be dischar-
ged.

§ 41. The person so removed shall be received by the superintendents, or their agents, and be supported and relieved in the county poor-house, or such other place as shall have been provided, under the direction of the said superintendents, until it shall appear to them that such person is able to work and maintain himself, when the superintendents may in their discretion discharge him.

Relief to pau-
pers who can
not be re-
moved to
poor-house.

§ 42. If it shall appear that the person so applying, requires only temporary relief, or is sick, lame, or otherwise disabled, so that he or she can not be conveniently removed to the county poor-house, or to such place as shall have been provided by the county superintendents, the overseers shall apply to a justice of the peace of the same town,

who shall examine into the facts and circumstances, and shall in writing order such sum to be expended for the temporary relief of such poor person, as the circumstances of the case shall require ; which order shall entitle the overseer to receive any sum he may have paid out or contracted to pay, within the amount therein specified from the county treasurer, to be by him charged to the county, if such person be a county charge ; if not, to be charged to the town where such relief was afforded ; but no greater sum than ten dollars shall be expended or paid for the relief of any one poor person, or one family, without the sanction in writing of one of the superintendents of the poor of the county, which shall be presented to the county treasurer, with the order of the justice.

TITLE 1.

§ 43. If application for relief be made in any of those counties where no county poor-house, or other place shall have been provided, as aforesaid, for the reception of the poor, the overseers of the poor shall, with the assistance of some justice of the peace of the same town, inquire into the facts and circumstances of the case, and shall make an order in writing for such allowance, weekly or otherwise, as the said justice, and one of the said overseers, shall think required by the necessities of such poor person.

Relief to paupers in counties not having poor-houses.

§ 44. If such pauper have a legal settlement in the town where such application is made, or in any other town of the same county, the overseers shall apply the monies so allowed to the relief and support of such pauper ; the monies paid by them, or contracted to be paid, pursuant to such order, shall be drawn by them from the county treasurer on producing the said order, out of the funds in his hands belonging to such town.

§ 45. If such pauper has no legal settlement in the same county, the overseers shall immediately give the notice herein before directed, to one of the county superintendents ; and until the county superintendents shall take the charge of the support of such pauper, the overseers shall provide for his relief and support, as aforesaid, and the expense thereof from the time of giving such notice to a county superintendent, shall be paid to the said overseers by the county treasurer, on the production of such order and of proof by affidavit, of the time of the giving such notice, and shall be by him charged to the county.

Notice to be given in certain cases.

§ 46. Whenever the county superintendents take charge of the support of any county pauper, in those counties where no poor-house is provided, they may authorise the overseers of the poor of the town in which such pauper may be, to continue to support him, on such terms and under such regulations as they shall prescribe ; and thereafter no monies shall be paid to the said overseers for the support of such pauper, without the order of the superintendents ; or the said superintendents may remove such pauper to any other town, and there provide for his support, in such manner as they shall deem expedient.

County paupers in counties having no poor-houses.

TITLE 1.

Accounts with towns bound to support their poor, by county treasurer.

§ 47. In those counties where the respective towns are required to support their own poor, the county treasurers thereof shall respectively open and keep an account with each town, in which the town shall be credited with all monies received from the same, or from its officers, and shall be charged with the monies paid for the support of the poor chargeable to such town. And if there be a county poor-house, or other place provided in such county for the reception of the poor, the superintendents of the poor of the county shall, in each year, before the annual meeting of the board of supervisors of such county, furnish to the county treasurer a statement of the sums charged by them, as herein after directed, to the several towns for the support of their poor, which shall be charged to such towns respectively, by the county treasurer, in his accounts.

Ib. by superintendents.

§ 48. In those counties in which a poor-house shall be established, or a place provided, by the superintendents, for the reception of the poor, and in which the several towns shall be liable for the support of their poor respectively, it shall be the duty of the superintendents, annually, and during the week preceding the annual meeting of the board of supervisors, to make out a statement of all the expenses incurred by them the preceding year, and of the monies received, and exhibiting the deficiency, if any, in the funds provided for the defraying such expenses; and they shall apportion the said deficiency among the said several towns, in proportion to the number and expenses of the paupers belonging to the said towns, respectively, who shall have been provided for by the said superintendents, and shall charge the said towns with the said proportions; which statement shall be by them delivered to the county treasurer, as before directed.

To be laid before supervisors.

Balances how collected.

§ 49. At the annual meeting of the board of supervisors, the county treasurer shall lay before them the account so kept by him; and if it shall appear that there is a balance against any town, the said board shall add the same to the amount of taxes to be levied and collected upon such town, with the other contingent expenses thereof, together with such a sum for interest, at the rate of seven dollars on the hundred, as will reimburse and satisfy any advances that may be made, or that may have been made, from the county treasury, for such town; which monies, when collected, shall be paid to the county treasurer.

Expense of supporting county poor, how defrayed.

§ 50. The superintendents of the poor in each county shall annually present to the board of supervisors, at their annual meeting, an estimate of the sum which, in their opinion, will be necessary, during the ensuing year, for the support of the county poor; and the said supervisors shall cause such sum as they may deem necessary for that purpose, to be assessed, levied and collected, in the same manner as the other contingent expenses of the county, to be paid to the county treasurer, and to be by him kept as a separate fund, distinct from the other funds of the county.

who shall examine into the facts and circumstances, and shall in writing order such sum to be expended for the temporary relief of such poor person, as the circumstances of the case shall require; which order shall entitle the overseer to receive any sum he may have paid out or contracted to pay, within the amount therein specified from the county treasurer, to be by him charged to the county, if such person be a county charge; if not, to be charged to the town where such relief was afforded; but no greater sum than ten dollars shall be expended or paid for the relief of any one poor person, or one family, without the sanction in writing of one of the superintendents of the poor of the county, which shall be presented to the county treasurer, with the order of the justice.

TITLE 1.

§ 43. If application for relief be made in any of those counties where no county poor-house, or other place shall have been provided, as aforesaid, for the reception of the poor, the overseers of the poor shall, with the assistance of some justice of the peace of the same town, inquire into the facts and circumstances of the case, and shall make an order in writing for such allowance, weekly or otherwise, as the said justice, and one of the said overseers, shall think required by the necessities of such poor person.

Relief to paupers in counties not having poor-houses.

§ 44. If such pauper have a legal settlement in the town where such application is made, or in any other town of the same county, the overseers shall apply the monies so allowed to the relief and support of such pauper; the monies paid by them, or contracted to be paid, pursuant to such order, shall be drawn by them from the county treasurer on producing the said order, out of the funds in his hands belonging to such town.

§ 45. If such pauper has no legal settlement in the same county, the overseers shall immediately give the notice herein before directed, to one of the county superintendents; and until the county superintendents shall take the charge of the support of such pauper, the overseers shall provide for his relief and support, as aforesaid, and the expense thereof from the time of giving such notice to a county superintendent, shall be paid to the said overseers by the county treasurer, on the production of such order and of proof by affidavit, of the time of the giving such notice, and shall be by him charged to the county.

Notice to be given in certain cases.

§ 46. Whenever the county superintendents take charge of the support of any county pauper, in those counties where no poor-house is provided, they may authorise the overseers of the poor of the town in which such pauper may be, to continue to support him, on such terms and under such regulations as they shall prescribe; and thereafter no monies shall be paid to the said overseers for the support of such pauper, without the order of the superintendents; or the said superintendents may remove such pauper to any other town, and there provide for his support, in such manner as they shall deem expedient.

County paupers in counties having no poor-houses.

TITLE 1. the poor, subject to such alterations as the board of supervisors may, by a general resolution, make :

Payment of such allowances.

6. To authorise the keepers of such houses or places so provided, to certify the amount due to any person for bringing such paupers ; which amount shall be paid by the county treasurer, on the production of such certificate, countersigned and allowed by any two superintendents :

To decide disputes respecting settlements.

7. To decide any dispute that shall arise concerning the settlement of any poor person, summarily, upon a hearing of the parties ; and for that purpose, to issue subpcenas to compel the attendance of witnesses, and to administer oaths to them in the same manner, with the like power to enforce such process as is given to justices of the peace in any matter cognizable by them : their decisions shall be filed in the office of the county clerk within thirty days after they are made, and shall be conclusive and final upon all parties interested :

To direct and commence suits.

8. To direct the commencement of suits by any overseers of the poor who shall be entitled to prosecute for any penalties, or upon any recognizances, bonds, or securities taken for the indemnity of any town or of the county ; and in case of the neglect of any such overseer, to commence and conduct such suits, without the authority of such overseers, in their names :

To draw on county treasurer.

9. To draw from time to time on the county treasurer for all necessary expenses incurred in the discharge of their duties, which drafts shall be paid by him out of the monies placed in his hands for the support of the poor :

To account.

10. To render to the board of supervisors of their county, at their annual meeting, an account of all monies received and expended by them, or under their direction, and of all their proceedings :

To pay over monies.

11. To pay over all monies remaining in their hands, within fifteen days after the expiration of their office, to the county treasurer, or to their successors.⁶

County poor-houses.

§ 17. The board of supervisors of any county in this state, in which a county poor-house is not already erected, may, at any annual or special meeting thereof, determine to erect such house for the reception of the poor of their county ; and upon filing such determination with the clerk of the county, they may direct the superintendents of the poor of such county to purchase one or more tracts of land not exceeding two hundred acres, and to erect thereon one or more suitable buildings for the purpose aforesaid. To defray the expenses of such purchase and buildings, the said board may raise by tax on the real and personal estate of the inhabitants of the same county, a sum not exceeding seven thousand dollars, by such instalments and at such times as they may judge expedient. The said tax shall be raised, assessed and collected in the same manner as the other county charges,

Expense limited.

and shall be paid by the county treasurer to the superintendents of the poor of the county, to be applied in defraying the expenses aforesaid.⁷

TITLE I.

§ 18. The superintendents of county poor-houses, that have been erected, or shall be erected pursuant to any law, shall be superintendents of the poor of their counties respectively, and shall possess all the powers and be subject to all the regulations herein before specified in relation to such superintendents.

Superintendents of county poor-houses.

§ 19. All monies which shall be received by the commissioners of excise in any town or city, of any county in which the supervisors shall have determined to abolish the distinction between town poor and county poor, shall be by them paid over to the county treasurer, within thirty days after the receipt thereof; and they shall at the same time deliver a certified copy of the resolutions of the board of excise, by which the sum to be paid for licenses by grocers, tavern-keepers or others, shall be fixed. Any commissioner of excise neglecting the said duty, or any part thereof, shall forfeit fifty dollars, to be recovered by and in the name of the superintendents of the poor of the county; and shall also be liable to an action by and in the name of the county treasurer, for all monies received by them, with the interest thereon from the time the same should have been paid over.

Excise money, when to be paid to county treasurer.

Penalty.

§ 20. All monies which shall be collected by overseers of the poor of any town in a county where the poor are all a county charge, from the relatives of any poor person bound to contribute to his support; or from the sale of any personal property, or the rents and profits of the real property, of any person who shall abscond, leaving a wife or children; or received for any fines, penalties or forfeitures, which by law are directed to be applied to the support of the poor; or collected on any bond or other security that shall be given for the benefit or indemnity of any town, or of the overseers or inhabitants of such town; and all other monies which shall be received by such overseers in their official capacity, shall be by them paid over within thirty days after the receipt of the same, to the county treasurer, for the benefit of the poor; and if not so paid, the same may be recovered in an action to be brought by and in the name of the county treasurer, with interest, at the rate of ten dollars on the hundred, for a year, from the time the same should have been paid.

Also all other monies received by overseers.

Penalty.

§ 21. In those counties where the supervisors shall determine to abolish the distinction between town poor and county poor, and to have all the poor a county charge, it shall be the duty of the clerk of the board of supervisors, immediately to serve notice of such determination on the overseers of the poor of every town in the county. Within three months after the service of such notice, the overseers of the poor of every town, shall pay over all monies which shall remain

Notice of determination of supervisors, &c.

(7) Laws of 1824, p. 332; Laws of 1826, p. 3.

TITLE I. in their hands, after discharging all demands against them as such overseers, to the county treasurer, to be applied by him towards the future taxes of such town. In case of neglect to pay over such monies, the county treasurer may maintain an action therefor, in which he shall recover interest on the monies withheld, from the time they should have been paid over.

Excise money, &c. in other counties.

§ 22. In those counties in which the distinction between county poor and town poor prevails, the excise money collected in any town, and all penalties given by law to the overseers of the poor, when received, shall be applied to the use of the poor of the town in which such money and penalties shall be collected.⁸

Poor to be a county charge in certain counties.

§ 23. In the counties of Warren, Washington, Saratoga, and Genesee, poor persons entitled to support as aforesaid, shall be maintained at the expense of the said counties respectively; and all costs and charges attending the examinations, conveyance, support, and necessary expenses of paupers within the said counties respectively, shall be a charge upon the said counties, without reference to the number or expense of paupers which may be sent to the poor-house of said counties, from or by any of the towns therein. The said charges and expenses shall be reported by the superintendents of the poor of the said counties, to the boards of supervisors therein respectively, and shall be assessed, levied and collected of and upon the taxable real and personal estate in the said counties, in the same manner as other county charges.⁹

When to become so in other counties.

§ 24. The board of supervisors of any county in this state, at any annual meeting, or at any special meeting called for that purpose, may determine to abolish all distinction between county poor and town poor in their counties respectively, and to have the expense of maintaining all the poor a county charge; and upon their filing such determination, duly certified by the clerk of the board, with the county clerk, the said poor shall be maintained, and the expense thereof defrayed in the manner prescribed in the preceding section relative to the counties of Warren, Washington, Saratoga and Genesee.⁹

Notice to be given.

§ 25. When the supervisors of any county shall have determined to abolish the distinction between county poor and town poor, the clerk of the board shall serve a copy of the resolution making such determination, upon the clerk of each town, village or city, within such county.¹⁰

Excise money, &c. to be paid to county treasurer.

§ 26. After such resolution shall be served, it shall be the duty of the commissioners of excise in the several towns of such county, and of the officers of every city and village therein, to pay over to the treasurer of the county all monies which shall thereafter be received for licenses to tavern-keepers, retailers or grocers, and all monies

(8) Laws of 1823, p. 170, § 6. (9) Laws of 1827, p. 136; 1826, p. 134. (10) Laws of 1828, p. 170, § 3, 4, & 5.

which shall be recovered as penalties for violating the excise laws, or any other laws, and which are directed to be paid to the overseers of the poor.¹¹ TITLE I.

§ 27. If any person having in his hands any monies directed to be paid to the county treasurer by the preceding section, shall neglect or refuse to pay the same within thirty days after demand thereof, the county treasurer may maintain an action in his name of office for the recovery thereof, together with interest from the time of such demand.¹¹ Payment how compelled.

§ 28. In all the other counties of this state, except the counties of Warren, Washington, Saratoga, Genesee, and those counties of which the board of supervisors shall file the determination aforesaid, the poor having a settlement in any town in such county, shall be supported at the expense of such town, and the poor not having such settlement shall be supported by the county in which they may be. Poor of other counties, how supported.

§ 29. Every person of full age, who shall be a resident and inhabitant of any town for one year, and the members of his family who shall not have gained a separate settlement, shall be deemed settled in such town. A minor may be emancipated from his or her father, and may gain a settlement, Settlements how gained.

1. If a female, by being married and living for one year with her husband, in which case the husband's settlement shall determine that of the wife: Minors.

2. If a male, by being married and residing for one year separately from the family of his father:

3. By being bound as an apprentice, and serving one year by virtue of such indentures:

4. By being hired and actually serving for one year for wages to be paid to such minor. A woman of full age, by marrying, shall acquire the settlement of her husband, if he have any. And until a poor person shall have gained a settlement in his own right, his settlement shall be deemed that of his father or mother; but no child born in any place used and occupied as a residence for the poor of any town, city or county, shall gain any settlement merely by reason of the place of such birth; nor shall any child born while the mother is a county pauper, gain any settlement by reason of the place of its birth. Married women.

§ 30. But no residence of any person as a pauper, in the county poor-house, or place provided for the support of the poor, or in any town while supported at the expense of any other town or county, shall operate to give such pauper a settlement in the town where such actual residence may be had. Qualification of last section.

(11) Laws of 1828, p. 170, § 3, 4, & 5.

TITLE 1.

Paupers not to be removed, how supported.

§ 31. No person shall be removed as a pauper from any city or town to any other city or town of the same or any other county, nor from any county to any other county; but every poor person shall be supported in the town or county where he may be, as follows:

1. If he hath gained a settlement in any town in such county, he shall be maintained by such town:

2. If he hath not gained a settlement in the county in which he shall become poor, sick or infirm, he shall be supported and relieved by the superintendents of the poor, at the expense of the county:

3. If such person be in a county where the distinction between town and county poor is abolished, he shall in like manner be supported at the expense of the county, and in both the cases aforesaid, proceedings for his relief shall be had as herein after directed:

4. If such pauper be in a county where the respective towns are liable to support their poor, and hath gained a settlement in some other town of the same county than that in which he may then be, he shall be supported at the expense of the town where he may be, and the overseers shall give notice in writing to the overseers of the town to which such pauper shall belong, or to one of them, requiring them to provide for the relief and support of such pauper.

Proceedings to determine settlement of pauper.

§ 32. If within ten days after the service of such notice, the overseers to whom the same was directed shall not proceed to contest the allegation of the settlement of such pauper, by giving the notice herein after directed, they, their successors, and the town which they represent, shall be forever precluded from contesting or denying such settlement. They may, within the time aforesaid, give notice in writing to the overseers of the town where such pauper may be, that they will appear before the county superintendents, at a place and on a day therein to be specified, which day shall be at least ten days, and not more than thirty days from the time of the service of such notice, to contest the said alleged settlement.

15.

§ 33. The county superintendents shall convene whenever required by any overseers pursuant to such notice, and shall proceed to hear and determine the controversy, and may award costs not exceeding ten dollars, to the prevailing party, which may be recovered in any action before a court of competent jurisdiction. The decision of the superintendents shall be final and conclusive.

Towns how compelled to support paupers.

§ 34. The overseers of the poor of the town in which it may be alleged any pauper has gained a settlement, may at any time after receiving such notice requiring them to provide for such pauper, take and receive such pauper to their town and there support him. If they omit to do so, or shall fail to obtain the decision of the county superintendents, so as to exonerate them from the maintenance of such pauper, the charge of giving such notice, and the expenses of maintaining such pauper, after being allowed by the county superintendents

dents, shall be laid before the board of supervisors at their annual meetings, from year to year, as long as such expenses shall be incurred; and the supervisors shall annually add the amount of the said charges to the tax to be laid upon the town to which the pauper belongs, together with such sum in addition thereto, as will pay the town incurring such expenses, the lawful interest thereon, from the time of expenditure to the time of repayment, which sums shall be assessed, levied and collected, in the same manner as the other contingent charges of such town. The said monies, when collected, shall be paid to the county treasurer, and be by him credited to the account of the town which incurred the said expenses.

TITLE I.

§ 35. The support of any pauper shall not be charged to the county, without the sanction of the superintendents. If a pauper be sent to the county poor-house, or place provided for the poor, as a county pauper, the superintendents in those counties where the respective towns are required to support their own poor, shall immediately inquire into the fact, and if they are of opinion that such pauper has a legal settlement in any town of the said county, they shall, within thirty days after such pauper shall have been received, give notice to the overseers of the poor of the town to which such pauper belongs, that the expenses of his support will be charged to such town, unless the said overseers, within such time as the said superintendents shall appoint, not less than twenty days thereafter, show that such town ought not to be so charged. And on the application of the said overseers, the superintendents shall re-examine the matter, and take testimony in relation thereto, and shall finally decide the question; which decision shall be conclusive.

Proceedings to determine who are county paupers.

§ 36. In those counties where no county poor-house or other place is provided, no person shall be supported as a county pauper, without the direction of at least one superintendent. In such cases the overseers of the poor of the town where such person may be, shall immediately give notice to one of the superintendents, who shall inquire into the circumstances; and if he is satisfied that such pauper hath not gained a legal settlement in any town of the said county, he shall give a certificate to that effect, and that such pauper is chargeable to the county. He shall report every such case to the board of superintendents, at their next meeting, who may affirm such certificate, or may annul the same, on giving due notice to the overseers of the poor of the town interested, and after hearing the allegations and proofs in the premises.

Ib. in counties where there are no poor-houses.

§ 37. If the superintendent to whom the overseers may have given such notice, shall neglect or refuse to give the certificate aforesaid, the overseers may apply to the board of county superintendents, who shall summarily hear and determine the matter, and whose decision shall be conclusive.

TITLE 1.

Decisions of superintendents, their effect, &c.

§ 38. The decisions of the board of county superintendents, in relation to the settlement of any paupers, or to their being a charge upon the county, shall be entered in books to be provided for that purpose, and certified by the signatures of such of the said superintendents as make such decisions; and a duplicate thereof, certified in the same manner, shall be filed in the county clerk's office within thirty days after the making of any such decision. Such original duplicate, or a copy thereof duly certified, shall be conclusive evidence of the facts therein contained.

Relief to paupers in counties having poor-houses.

§ 39. When any person shall apply for relief to any overseer of the poor, in any county where a poor-house is established, or other place provided for the reception of the poor, such overseers shall inquire into the state and circumstances of the applicant. If it shall appear that the applicant is in such indigent circumstances as to require permanent relief and support, and can be safely removed, the overseers shall, by a written order, cause the poor person to be removed to the county poor-house, or to the place provided as aforesaid, to be relieved and provided for as the necessities of such applicant may require. If the said county be one of those where the respective towns are required to support their own poor, the overseers shall designate in such order of removal whether the pauper be chargeable to the county or not; and if no such designation be made, such pauper shall be deemed to belong to the town whose overseers made such order.

Expense of removal and temporary support.

§ 40. The expense of such removal shall be paid on the certificate of the keeper of the poor-house, or other place, countersigned as aforesaid, at the rate that shall have been prescribed by the superintendents; and the overseers shall be allowed such sum as may have been necessarily paid out or contracted to be paid, for the relief or support of such pauper previous to the said removal, as the superintendents shall judge was reasonably expended while it was improper to remove such pauper, which sum shall be paid by the county treasurer on the order of the superintendents, and shall be charged to the county, if such pauper be a county charge, or to the town sending him, if he be not a county charge.

How supported and when to be discharged.

§ 41. The person so removed shall be received by the superintendents, or their agents, and be supported and relieved in the county poor-house, or such other place as shall have been provided, under the direction of the said superintendents, until it shall appear to them that such person is able to work and maintain himself, when the superintendents may in their discretion discharge him.

Relief to paupers who can not be removed to poor-houses.

§ 42. If it shall appear that the person so applying, requires only temporary relief, or is sick, lame, or otherwise disabled, so that he or she can not be conveniently removed to the county poor-house, or to such place as shall have been provided by the county superintendents, the overseers shall apply to a justice of the peace of the same town,

who shall examine into the facts and circumstances, and shall in writing order such sum to be expended for the temporary relief of such poor person, as the circumstances of the case shall require; which order shall entitle the overseer to receive any sum he may have paid out or contracted to pay, within the amount therein specified from the county treasurer, to be by him charged to the county, if such person be a county charge; if not, to be charged to the town where such relief was afforded; but no greater sum than ten dollars shall be expended or paid for the relief of any one poor person, or one family, without the sanction in writing of one of the superintendents of the poor of the county, which shall be presented to the county treasurer, with the order of the justice.

TITLE I.

§ 43. If application for relief be made in any of those counties where no county poor-house, or other place shall have been provided, as aforesaid, for the reception of the poor, the overseers of the poor shall, with the assistance of some justice of the peace of the same town, inquire into the facts and circumstances of the case, and shall make an order in writing for such allowance, weekly or otherwise, as the said justice, and one of the said overseers, shall think required by the necessities of such poor person.

Relief to paupers in counties not having poor-houses.

§ 44. If such pauper have a legal settlement in the town where such application is made, or in any other town of the same county, the overseers shall apply the monies so allowed to the relief and support of such pauper; the monies paid by them, or contracted to be paid, pursuant to such order, shall be drawn by them from the county treasurer on producing the said order, out of the funds in his hands belonging to such town.

§ 45. If such pauper has no legal settlement in the same county, the overseers shall immediately give the notice herein before directed, to one of the county superintendents; and until the county superintendents shall take the charge of the support of such pauper, the overseers shall provide for his relief and support, as aforesaid, and the expense thereof from the time of giving such notice to a county superintendent, shall be paid to the said overseers by the county treasurer, on the production of such order and of proof by affidavit, of the time of the giving such notice, and shall be by him charged to the county.

Notice to be given in certain cases.

§ 46. Whenever the county superintendents take charge of the support of any county pauper, in those counties where no poor-house is provided, they may authorise the overseers of the poor of the town in which such pauper may be, to continue to support him, on such terms and under such regulations as they shall prescribe; and thereafter no monies shall be paid to the said overseers for the support of such pauper, without the order of the superintendents; or the said superintendents may remove such pauper to any other town, and there provide for his support, in such manner as they shall deem expedient.

County paupers in counties having no poor-houses.

TITLE I.

Accounts with towns bound to support their poor, by county treasurer.

§ 47. In those counties where the respective towns are required to support their own poor, the county treasurers thereof shall respectively open and keep an account with each town, in which the town shall be credited with all monies received from the same, or from its officers, and shall be charged with the monies paid for the support of the poor chargeable to such town. And if there be a county poor-house, or other place provided in such county for the reception of the poor, the superintendents of the poor of the county shall, in each year, before the annual meeting of the board of supervisors of such county, furnish to the county treasurer a statement of the sums charged by them, as herein after directed, to the several towns for the support of their poor, which shall be charged to such towns respectively, by the county treasurer, in his accounts.

Th. by superintendents.

§ 48. In those counties in which a poor-house shall be established, or a place provided, by the superintendents, for the reception of the poor, and in which the several towns shall be liable for the support of their poor respectively, it shall be the duty of the superintendents, annually, and during the week preceding the annual meeting of the board of supervisors, to make out a statement of all the expenses incurred by them the preceding year, and of the monies received, and exhibiting the deficiency, if any, in the funds provided for the defraying such expenses; and they shall apportion the said deficiency among the said several towns, in proportion to the number and expenses of the paupers belonging to the said towns, respectively, who shall have been provided for by the said superintendents, and shall charge the said towns with the said proportions; which statement shall be by them delivered to the county treasurer, as before directed.

To be laid before supervisors. Balances how collected.

§ 49. At the annual meeting of the board of supervisors, the county treasurer shall lay before them the account so kept by him; and if it shall appear that there is a balance against any town, the said board shall add the same to the amount of taxes to be levied and collected upon such town, with the other contingent expenses thereof, together with such a sum for interest, at the rate of seven dollars on the hundred, as will reimburse and satisfy any advances that may be made, or that may have been made, from the county treasury, for such town; which monies, when collected, shall be paid to the county treasurer.

Expense of supporting county poor, how defrayed

§ 50. The superintendents of the poor in each county shall annually present to the board of supervisors, at their annual meeting, an estimate of the sum which, in their opinion, will be necessary, during the ensuing year, for the support of the county poor; and the said supervisors shall cause such sum as they may deem necessary for that purpose, to be assessed, levied and collected, in the same manner as the other contingent expenses of the county, to be paid to the county treasurer, and to be by him kept as a separate fund, distinct from the other funds of the county.

§ 51. In those counties where there are no county poor-houses established, the overseers of the poor of the respective towns shall enter, in books to be provided at the expense of their towns, an account of all matters transacted by them, relating to their official duties; of all monies received by them, specifying from whom, and on what account; of all monies laid out and disbursed by them, to whom, and by what authority, and specifying, in each case, whether to county poor or to town poor; the names of all persons applying for relief, and ordered to be relieved as aforesaid; the day and year when they were admitted to have relief; the weekly or other sums of money allowed for that purpose, and the cause of giving such relief.¹²

TITLE 1.

Accounts of overseers of poor in certain counties.

§ 52. On the Tuesday next preceding the annual town-meeting of every town, the overseers of the poor shall lay the said original books before the board of town auditors, together with a just and true account of all monies by them received and expended for the use of the poor, and in what manner, together with an account of the earnings of the poor persons by them employed; which account shall be verified by the oaths of the overseers, and shall be filed with the town clerk. The board of town auditors shall compare the said account with the entries in the poor books aforesaid; shall examine the vouchers in support thereof, and shall audit and settle the same, and state the balance due from such overseers, or to them, as the case may be. No credit shall be allowed to any overseer for monies paid, unless it shall appear that such payment was made pursuant to a legal order.¹³

How audited and settled.

[See ch. XI. ante p. 355, Article 5.]

§ 53. Every person who, having been an overseer of the poor, shall refuse or neglect to present such original books, or to exhibit such accounts, to the board of town auditors, as required in the last section, shall forfeit the sum of two hundred and fifty dollars, to be recovered by and in the name of the overseers of the poor of such town.¹⁴

Penalty.

§ 54. In those counties where the respective towns are made liable for the support of their poor, it shall be the duty of the town clerk to exhibit at the annual town-meetings, the accounts for the support of the poor therein, the preceding year, as the same shall have been allowed and passed by the board of town auditors, which accounts shall be openly and distinctly read by the clerk of the meeting; and the overseers of the poor shall also present an estimate of the sum which they shall deem necessary to supply any deficiency of the preceding year, and to provide for the support of the poor for the ensuing year.¹⁵

Accounts and estimates to be read at town-meeting.

§ 55. The inhabitants of such town shall thereupon, by a vote of a majority of the persons qualified to choose town officers, determine upon the sum of money which shall be assessed upon the said town the ensuing year, for the purpose aforesaid. The sum so voted, when

Expense of supporting town poor, how defrayed

(12) 1 R. L. 290, § 28. (13) Ib. § 23 & 30. (14) Ib. § 30. (15) 1 R. L. 297, § 23; Laws of 1817, p. 176.

TITLE 1. raised and collected, in those counties where a county poor-house, or other place shall have been provided for the reception of the poor, shall be paid to the county treasurer, and by him placed to the credit of the town: in all other counties, the sum so voted by any town, shall be paid to the overseers of the poor thereof.¹⁶

Ib. in certain cities.

§ 56. The overseers of the poor in the cities of Albany, Hudson, Troy and Schenectady, shall lay their books before, and render their accounts to the common councils of the said cities respectively, from time to time, as shall be required. The common councils of such of the said cities as shall be liable for the support of their own poor, shall yearly, determine the sum of money to be raised in such cities, respectively, for the support of the poor for the ensuing year; a certified copy of which shall be laid before the board of supervisors of the county, who shall cause the same to be assessed, levied, collected and paid to the county treasurer.¹⁷

Compensation to overseers and justices.

§ 57. The accounts of overseers of the poor, and of justices of the peace, for any personal or official services rendered by them, in relation to the poor, shall be audited and settled by the board of supervisors, and the sums thus audited and allowed, shall be paid by the county treasurer; and if such services were rendered in behalf of any town liable to support its own poor, the same shall be charged to such town. No allowance for time or services shall be made to any officer for attending any board with any accounts, for the purpose of having the same audited or paid.

Penalty for removing, &c. paupers

§ 58. Any person who shall send, carry, transport, remove or bring, or who shall cause to be sent, carried, transported, brought, or removed, any poor or indigent person, from any city, town, or county, to any other city, town, or county, without legal authority, and there leave such poor person, with intent to make any such city, town, or county to which the removal shall be made, chargeable with the support of such pauper, or who shall entice any such poor person so to remove, with such intent, shall forfeit fifty dollars, to be recovered by and in the name of the overseers of the poor of the town to which such pauper shall be brought or removed, or in the name of the superintendents of the poor of the county into which the said poor person shall be removed; and shall, moreover be deemed guilty of a misdemeanor, and on conviction, shall be imprisoned not exceeding six months, or fined not exceeding one hundred dollars, or both, in the discretion of the court.¹⁸

Proceedings to compel support of a pauper removed.

§ 59. The pauper so removed, brought, or enticed, shall be maintained by the county superintendents of the county where he may be. They may give notice to either of the overseers of the poor of the town from which he was brought or enticed, if such town be liable for his

(16) 1 R. L. 287, § 23; Laws of 1817, p. 176. (17) 1 R. L. 287, § 24 & 25. (18) Laws of 1817, p. 77; 1824, p. 336, § 9; 1825, p. 283; 1827, p. 255.

support; and if there be no town in the county from which he was brought or enticed, liable for his support, then to either of the county superintendents of the poor of such county, informing them of such improper removal, and requiring them forthwith to take charge of such pauper.

TITLE 1.

§ 60. The county superintendents, or the overseers to whom such notice may be directed, shall, within thirty days after the service thereof, take and remove the pauper so brought or enticed, to their county or town, and there support him, and pay the expense of such notice, and of the support of such pauper; or they shall, within the said time, by a written instrument under their hands, notify the county superintendents from whom such notice was received, or either of them, that they deny the allegation of such improper enticing or removal, or that their town is liable for the support of such pauper.

Liability how contested.

§ 61. If there shall be a neglect to take and remove such pauper, and also to notify such denial, within the time above prescribed, the said county superintendents and overseers respectively, whose duty it was so to do, their successors, and their respective counties or towns, shall be deemed to have acquiesced in the allegations contained in such first notice, and shall be forever precluded from contesting the same; and their counties and towns respectively, shall be liable for the expenses of the support of such pauper, which may be sued for and recovered, from time to time, by the county superintendents incurring the said expenses, in actions against the superintendents of the poor of the county, or the overseers of the poor of the town, as the case may be, so liable for such expenses.

Neglect to contest.

§ 62. Upon the service of any such notice of denial the county superintendents upon whom the same may be served, shall, within three months, commence a suit against the overseers of the poor of the town, or the county superintendents of the poor of the county, to whom the first notice was directed, or against their successors in office, for the expenses incurred in the support of such pauper, and shall prosecute the same to effect; if they neglect to do so, they, their successors, and their county, shall be forever precluded from all claim against the county or town to whose officers such first notice was directed, or any of their officers, for any expenses that may have been, or may be, incurred for the support of such pauper.

Suit when to be brought.

§ 63. Every county superintendent who shall neglect to render any account, or statement, to the board of supervisors, as herein required, or to pay over any monies, within the time prescribed by law, shall forfeit two hundred and fifty dollars, to be sued for and recovered by and in the name of the county treasurer. The superintendents shall also be liable to an action, either jointly, or severally, by the county treasurer, for all monies which shall be in their hands after the time the same should have been paid over according to law, with

Penalty on superintendents for neglect to render accounts, &c.

TITLE 1. interest thereon, at the rate of ten dollars upon the hundred for a year, from the time when the same should have been paid over.

Penalty for bringing paupers, &c. from without the state.

§ 64. If any person shall bring, or remove, or cause to be brought, or removed, any poor or indigent person, or lunatic, without a protector, from any place without this state, to any place within it, and there leave, or attempt to leave, such person, he shall forfeit and pay seventy-five dollars for every such person, to be sued for and recovered by and in the name of the overseers of the poor of the city or town into which such pauper may have been brought; and moreover shall be obliged to convey such pauper out of the state, or support him at his own expense.¹⁹

Payment over of penalties, and their application.

§ 65. All penalties imposed by this Title, shall be for the benefit of the poor; when recovered, they shall be paid to the county treasurer, and by him credited to the town by whose officers they have been collected, if such town be liable for the support of its own poor, or to the county, when collected by the county superintendents; if not paid by the persons collecting the same, when demanded by the county treasurer, he may maintain an action therefor, in his name of office.

Overseers to sue for penalties.

§ 66. Whenever it shall be made to appear to the satisfaction of any overseer of the poor, either upon complaint, or otherwise, that a penalty has been incurred by the violation of any provisions contained in the statutes of this state, which such overseer is directed by law to collect, it shall be his duty immediately to commence a suit for such penalty, and to prosecute the same diligently to effect.²⁰

Allowance therefor, and for costs.

§ 67. In auditing the accounts of the overseers of the poor, by the board of town auditors, allowance shall be made to them, for all costs to which they may have been subjected, or which shall have been recovered against them, in any suit brought by them pursuant to law; and they shall also be allowed the same daily pay, for attending to any such suit, as is allowed them for the performance of their official duties.²⁰

1b.

§ 68. Such allowances may be credited to them, in their accounts for monies collected for penalties, and may be deducted from such monies; and the balance of such penalties shall be paid to their successors in office, or to the county treasurer, as directed by law, in respect to such penalties.²⁰

1b.

§ 69. If there be not sufficient monies in their hands to satisfy such allowances, the same shall be paid as other town charges.²⁰

Certain paupers.

§ 70. Where, by the existing laws, any poor persons are maintained by any county, or by two or more towns, they shall continue to be so maintained.²¹

(19) Laws of 1817, p. 177, § 4. (20) Laws of 1820, p. 80, § 1 & 4. (21) 1 R. L. p. 22, § 22.

§ 71. Where, by virtue of any special act of the legislature, any one or more towns have erected a town poor-house, the same shall be continued, and the poor of such towns respectively, may be supported therein by the overseers of the poor of the town.²²

TITLE 1.
Town poor-houses.

§ 72. Every poor-house, alms-house, or other place provided by any city, town or county, for the reception and support of the poor, and all real and personal property whatever, belonging to or connected with the same, shall be exempt from all assessment and taxation, levied either by the state, or by any county, city, town or village; and the keeper of every poor-house, alms-house, or other place provided as aforesaid, shall be exempt from all service in the militia, from serving on juries, and from all assessments for labor on the highways.²³

Poor-houses, &c. exempt from taxes.
Keepers exempt from juriss. &c.

§ 73. In those counties where county poor-houses may be established, the superintendents may provide for the support of paupers that may be idiots, or lunatics, out of such poor-house, in such manner as shall best promote the interests of the county, and conduce to the comfort and recovery of such paupers.

Idiots and lunatics.

§ 74. Whenever any town shall have any monies raised for the support of the poor, invested in the name of the overseers of the poor of such town, the said overseers shall continue to have the control thereof, and shall apply the interest arising therefrom, to the support of the poor of their town, so long as such town shall be liable to support its own poor; and if the town shall be relieved from the liability to support its own poor, by a vote of the supervisors of the county, the monies so raised and invested, shall be applied to the payment of such taxes upon the town, as the inhabitants thereof shall, at an annual town meeting, determine.

Invested poor monica.

§ 75. It shall be the duty of the superintendents of the poor of every county in this state, during the month of December, in each year, to report to the secretary of state, in such form as he shall direct, the number of paupers that have been relieved or supported in such county the preceding year, distinguishing the number of county paupers from the number of town paupers, if any; the whole expense of such support, specifying the amount paid for transportation of paupers, and any other items which do not compose any part of the actual expense of maintaining the paupers, and the allowance made to superintendents, overseers, justices, keepers and officers; the actual value of the labor of the paupers maintained, and the estimated amount saved in the expense of their support, in consequence of their labor.

Reports by county superintendents to secretary of state.

§ 76. It shall be the duty of the supervisors of every town in those counties where all the poor are not a county charge, to report to the clerk of the board of supervisors, within fifteen days after the accounts

Reports by supervisors of towns supporting their own poor.

(22) Laws of 1820, p. 102; 1821, p. 243; 1822, p. 138; 1823, p. 256. (23) Laws of 1823, p. 7.

TITLE 2 of the overseers of the poor have been settled by the board of town auditors, in each year, an abstract of all such accounts for the preceding year, which shall exhibit the number of paupers that have been relieved or supported in such town, the preceding year, specifying the number of county paupers, and of town paupers, the whole expense of such support, and specifying the allowance made to overseers, justices, constables, or other officers, and any other items which shall not comprise any part of the actual expense of maintaining the paupers.

Duty of clerk of supervisors.

§ 77. The said abstracts shall be delivered by the clerk of the board of supervisors, to the county superintendents, to be included by them in their report aforesaid.

Penalty for neglect, and for false report.

§ 78. Any superintendent, supervisor, or clerk, who shall neglect or refuse to make such reports, abstracts, or copies aforesaid, or who shall wilfully make any false report, abstract, or copy, shall forfeit one hundred dollars, to be recovered by the district attorney of the county, in the name of the people of this state, and to be paid into the county treasury, for the benefit of the poor thereof. The secretary of state shall give notice to the district attorney of the county, of every such neglect or misconduct; and it shall be the duty of the district attorney, on receiving such notice, or in any way receiving satisfactory information of such neglect or misconduct, to prosecute for the recovery of such penalties.

Reports by secretary of state.

§ 79. The secretary of state shall annually lay before the legislature, during the first month of its session, an abstract of the said returns and reports.

TITLE II.

OF BEGGARS AND VAGRANTS.

- Sec. 1.** Persons enumerated who are to be deemed vagrants.
2. Constables when required, to carry vagrants before magistrates.
 3. Authority of magistrate; when to commit vagrant to poor-house, when to jail.
 4. Children begging, to be sent to poor-house, and may be bound out.

Enumeration of vagrants.

§ 1. All idle persons who, not having visible means to maintain themselves, live without employment; all persons wandering abroad and lodging in taverns, groceries, beer-houses, out-houses, market-places, sheds or barns, or in the open air, and not giving a good account of themselves; all persons wandering abroad and begging, or who go about from door to door, or place themselves in the streets, highways, passages, or other public places, to beg or receive alms, shall be deemed vagrants.²⁴

To be bro't before magistrates.

§ 2. It shall be the duty of every constable or other peace officer, whenever required by any person, to carry such vagrant before a jus-

tice of the peace of the same town, or before the mayor, recorder, or any one of the aldermen of the city in which such vagrant shall be, for the purpose of examination. TITLE 3.

§ 3. If such justice or other officer be satisfied by the confession of the offender, or by competent testimony, that such person is a vagrant, within the description aforesaid, he shall make up and sign a record of conviction thereof, which shall be filed in the office of the clerk of the county ; and shall, by warrant under his hand, commit such vagrant, if he be not a notorious offender, and be a proper object for such relief, to the county poor-house, if there be one, or to the alms-house or poor-house of such town or city, for any time not exceeding six months, there to be kept at hard labor ; or if the offender be an improper person to be sent to the poor-house, then he shall be committed to the bridewell or house of correction of such city or county, if there be one, and if none, to the common jail of such county, for a term not exceeding sixty days, there to be kept, if the justice think proper so to direct, upon bread and water only, for such time as shall be directed, not exceeding one half the time for which he shall be committed.²⁵

Proceedings.
When va-
grant to be
sent to county
poor-house,
when to jail.

§ 4. If any child shall be found begging for alms, or soliciting charity from door to door, or in any street, highway, or public place of any city or town, any justice of the peace, on complaint and proof thereof, shall commit such child to the county poor-house, if there be one, or to the alms-house or other place provided for the support of the poor, there to be detained, kept, employed and instructed in such useful labor as such child shall be able to perform, until discharged therefrom by the county superintendents of the poor, or bound out as an apprentice by them, or by the commissioners of the alms-house, or the overseers of the poor.²⁶

Children beg-
ging, how to
be dealt with.

TITLE III.

OF THE SAFE KEEPING AND CARE OF LUNATICS.

- Sec. 1. Committees of a lunatic having property, to confine and maintain him.
2. If he has not property, certain relatives to confine and support him.
3. Powers of overseers of poor to compel relatives of lunatic to confine him, &c.
4. Lunatics how to be secured and where confined.
5. Duty of overseers to procure suitable place for confining lunatics.
6. When lunatics may be confined in jails; but not as disorderly persons.
7. Not to be confined with criminals, nor more than four weeks in a jail.
8. Two justices may apprehend lunatic, without application of overseers.
9. Superintendents and overseers may send lunatics to asylum in New-York.
10. Expense thereof and of maintaining lunatic, how defrayed.
11. Penalty for confining lunatics otherwise than as herein directed.
12. Powers of chancellor respecting lunatics, not to be affected by this Title.
13. Proceedings to compel committees of a lunatic to confine and support him.
14. County superintendents to have the same powers as overseers.

(25) 1 R. L. 114, § 1 ; Laws of 1824, p. 334. (26) Laws of 1821, p. 152, § 3 ; 1824, p. 334, § 4.

TITLE 3.

Lunatics having property to be confined, &c. by their committees.

§ 1. When any person, by lunacy or otherwise, becomes furiously mad, or so far disordered in his senses as to endanger his own person, or the person or property of others, if permitted to go at large, who is possessed of sufficient property to maintain himself, it shall be the duty of the committee of his person and estate, to provide a suitable place for the confinement of such person, and to confine and maintain him in such manner as shall be approved by the overseers of the poor of the city or town.

Not having property, to be confined, &c. by certain relatives.

§ 2. If such person is not possessed of sufficient property to maintain himself, it shall be the duty of the father and mother, and the children of such person, being of sufficient ability, to provide a suitable place for his confinement, and to confine and maintain him in such manner as shall be approved by the overseers of the poor of the city or town.²⁷

Duty how enforced.

§ 3. The overseers of the poor shall have the same remedies to compel such relatives to confine and maintain such lunatic or mad person, and to collect the costs and charges of his confinement, as are given by law in the case of poor and impotent persons becoming chargeable to any town.²⁷

Lunatics how secured.

§ 4. In case of the refusal or neglect of any committee of such lunatic or mad person, or of his relatives, to confine and maintain such person as aforesaid; or when there is no such committee or relative of sufficient ability; it shall be the duty of the overseers of the poor of the city or town where any lunatic or mad person shall be found, to apply to any two justices of the peace of the same city or town, who, upon being satisfied upon examination, that it would be dangerous to permit such lunatic to go at large, shall issue their warrant directed to the constables and overseers of the poor of such city or town, commanding them to cause such lunatic or mad person to be apprehended, and to be safely locked up and confined in such secure place as may be provided by the overseers of the poor, to whom the same shall be directed, within the town or city of which such overseers may be officers, or within the county in which such city or town may be situated, or in the county poor-house in those counties where such houses are established, or in the lunatic asylum in the city of New-York.²⁸

Duty of overseers.

§ 5. It shall be the duty of the overseers of the poor to whom such warrant shall be directed, to procure a suitable place for the confinement of such lunatic as therein directed, pursuant to the preceding section.²⁹

How and when lunatics may be confined in jails.

§ 6. No person who, by reason of lunacy or otherwise, is furiously mad, or so far disordered in his mind as to be dangerous if permitted to go at large, shall be committed as a disorderly person, to any pri-

(27) Laws of 1827, p. 319, § 5. (28) *Ib.* § 1, and 1 R. L. 116, § 6. (29) Laws of 1827, p. 319, § 1.

son, jail, house of correction, or confined therein, unless an agreement shall have been made for that purpose with the keepers thereof; or in any other way than as is herein directed.³⁰

TITLE 3.

§ 7. No such lunatic or mad person, or person disordered in his senses, shall be confined in the same room with any person charged with or convicted of any crime; nor shall such person be confined in any jail more than four weeks, and if he continue furiously mad or dangerous, he shall be sent to the asylum in New-York, or to the county poor-house or alms-house, or other place provided for the reception of lunatics, by the county superintendents.³¹

In what manner and for what time to be confined.

§ 8. Any two justices of the peace of the city or town where any such lunatic or mad person shall be found, may, without the application of any overseers of the poor, and upon their own view, or upon the information or oath of others, whenever they deem it necessary, issue their warrant for the apprehension and confinement of such lunatic or mad person, as aforesaid.³²

Powers of two justices in securing lunatics.

§ 9. The county superintendents of the poor of any county, and any overseers of the poor of any town, to which any person shall be chargeable, who shall be or become a lunatic, may send such person to the lunatic asylum in the city of New-York, by an order under their hands.

Lunatics may be sent to N. Y. asylum.

§ 10. The expense of sending any lunatic to the asylum at New-York, and of supporting him there, shall be defrayed by the county or town to which he may be chargeable; if chargeable to a county, or to any town whose poor monies are required to be paid into the county treasury, such expense shall be paid by the county treasurer, out of the funds appropriated to the support of the poor belonging to such county or town, after being allowed and certified by the county superintendents. If such lunatic be chargeable to a town, whose poor monies are not required to be paid into the county treasury, such expense shall be paid by the overseers of the poor thereof.

Expense thereof, and of lunatic's support.

§ 11. Any overseer of the poor, constable, keeper of a jail, or other person, who shall confine any such lunatic or mad person, in any other manner or in any other place than such as are herein prescribed, shall be deemed guilty of a misdemeanor; and on conviction, shall be liable to a fine not exceeding two hundred and fifty dollars, or to imprisonment not exceeding one year, or to both, in the discretion of the court before which the conviction shall be had.³¹

Penalty for confining lunatics, &c.

§ 12. None of the foregoing provisions shall be deemed to restrain or abridge the power and authority of the chancellor, concerning the safe-keeping of any lunatics, or the charge of their persons or estates.³²

Powers of chancery not to be affected

§ 13. The overseers of the poor of any city or town shall have the same remedies to compel the committee of the estate of any lunatic to

Committees of a lunatic how compelled to confine him, &c.

(30) Laws of 1827, p. 319, § 4. (31) *Id.* § 2 & 3. (32) 1 R. L. 116, § 6.

TITLE 4. confine and maintain such lunatic or mad person, and to collect of such committee the costs and charges of his confinement and support, as are given in the preceding sections against the relatives of such lunatic. And the court of general sessions of the peace of the city or county, shall make orders against such committee personally, and enforce them in the same manner as against the relatives of any poor person, so long as such committee hath any property in his hands for the support of such lunatic.

Powers of county superintendents.

§ 14. The county superintendents of the poor shall have all the powers and authority herein given to overseers of the poor of any town.

TITLE IV.

OF THE CARE OF HABITUAL DRUNKARDS.

- SEC. 1.** Powers of overseers of poor to forbid sale or delivery of liquor to drunkards.
 2. Penalty for selling, &c. contrary to notice, except ordered by a physician.
 3. Person designated as a drunkard may contest the fact.
 4, 5 & 6. Proceedings to try and determine the fact.
 7. Effect of verdict of jury.
 8 & 9. Costs for and against overseers, when to be allowed; how collected.
 10. Accounts of overseers for services, how allowed and paid.
 11. When overseers may revoke notice given by them or their predecessors.

Delivery of liquor to drunkards, how prohibited.

§ 1. Whenever the overseers of the poor of any city or town shall discover any person to be an habitual drunkard, they may, by writing under their hands, designate and describe such drunkard, and by written notice signed by them, require every merchant, distiller, shop-keeper, grocer, tavern-keeper, or other dealer in spirituous liquors, and every other person, residing within the city or town where such drunkard shall reside, or in any other city or town near to or adjoining such city or town, not to give, or sell under any pretence, any spirituous liquors to such drunkard.³⁸

Penalty for disobeying notice.

§ 2. If after the personal service of such notice, any such person shall knowingly give, or sell in any manner whatever, spirituous liquors to any such drunkard, except by the personal direction or on the written certificate of some physician, regularly licensed to practice, according to the laws of this state, stating that such liquor is necessary for the preservation or recovery of the health of such drunkard, he shall forfeit for every offence the sum of ten dollars, for the use of the poor of the town where such drunkard resides.

Charge may be contested.

§ 3. Any person so designated by the overseers of the poor as an habitual drunkard, may apply to any justice of the peace of the city or town in which the person so designated resides, for process to summon a jury to try and determine such fact of drunkenness.

(38) This Title is compiled from the act of 1821, p. 99, and that of 1823, p. 131, with few variations.

§ 4. On such application, the justice shall immediately give notice thereof, in writing, to the overseers of the poor, specifying the time and place where the parties shall meet for the trial of such fact, and shall issue a venire to any constable to summon a jury of twelve persons, competent to serve on juries, to appear at the said time and place, for the purpose of trying the said fact.

TITLE 4
Proceedings.

Venire.

§ 5. Such jury shall be summoned, returned, and six of them shall be balloted for by such justice, and shall be sworn well and truly to try the fact of the alleged drunkenness, in the same manner as for the trial of issues in suits brought before a justice of the peace; and witnesses shall be summoned, and their attendance and testimony enforced, and they shall be sworn and examined before the said jury in like manner.

Jury.

§ 6. The said jury shall hear the allegations and proofs offered on both sides, and shall proceed in all respects as in trials at law, to render their verdict; which verdict shall be entered by such justice in a book, to be provided by him for the purpose.

Trial.

§ 7. The said verdict, or an attested copy thereof, under the hand of such justice, shall be received and deemed to be presumptive evidence of the fact thereby found, in any action between the overseers of the poor and any person prosecuted by them for the penalty herein before imposed.

Effect of a verdict.

§ 8. If by the verdict of the jury, it shall be found that the person demanding such trial is an habitual drunkard, the justice shall enter judgment against such person, and award execution for the costs of the overseers of the poor in attending such trial, in the same manner as in suits between individuals, which justices of the peace are authorised to try and determine.

Costs.

§ 9. If it be found that such person is not an habitual drunkard, such justice shall in like manner enter judgment and award execution for the costs of such person, against the said overseers, unless it shall appear to such justice that the said overseers acted in good faith, and had reasonable cause to believe such person an habitual drunkard; in which case no costs shall be awarded against them, but each party shall pay their own costs.

§ 10. The accounts of the overseers of the poor, for the expense of defending against any such application, shall be audited and allowed in the same manner as the other expenses of such city or town.

Overseers, how paid for services.

§ 11. If at any time the overseers of the poor shall be satisfied that such drunkard has reformed and become temperate, they may revoke and annul any such notice given by them or any of their predecessors in office.

When notice may be revoked.

TITLE 5.



TITLE V.

OF DISORDERLY PERSONS.

- Sec. 1. Disorderly persons enumerated.
2. Proceedings against them ; surety for good behavior when to be required.
 3. What acts to be deemed breaches of recognizance for good behavior.
 4. Recognizance, when and how prosecuted ; recovery how applied.
 5. Court before which recovery had may require new sureties or commit to jail.
 6. When and by whom persons committed for want of sureties, may be discharged.
 7. List of disorderly persons committed, to be laid before general sessions.
 8. Court to inquire into each case and hear proofs.
 9. Court may discharge, or authorise the binding out of disorderly persons.
 10. Court may commit to prison ; duration of imprisonment, &c.
 11. When materials, &c. to be bought and disorderly persons compelled to work.
 12. Expense of materials, &c. how defrayed.
 13. Proceeds of labor how disposed of and accounted for.

Enumeration
of disorderly
persons.

§ 1. All persons who threaten to run away and leave their wives or children a burthen on the public ; all persons pretending to tell fortunes, or where lost or stolen goods may be found ; all common prostitutes, all keepers of bawdy houses or houses for the resort of prostitutes, drunkards, tiplers, gamesters, or other disorderly persons ; all persons who have no visible profession or calling to maintain themselves by, but who do, for the most part, support themselves by gaming ; all jugglers, common showmen and mountebanks, who exhibit or perform for profit any puppet show, wire or rope dance, or other idle shows, acts or feats ; all persons who keep in any public highway or place, or in any place where spirituous liquors are sold, any keno table, wheel of fortune, thimbles, or other table, box, machine, or device for the purpose of gaming ; all persons who go about with such table, wheel, or other machine or device, exhibiting tricks or gaming therewith ; all persons who play in public streets or highways, with cards, dice, or any other instrument or device for gaming ; shall be deemed disorderly persons.³⁴

Proceedings
against them.

§ 2. Upon complaint made on oath to any justice of the peace against any person as being disorderly, he shall issue his warrant for the apprehension of the offender, and cause him or her to be brought before such justice for examination. If it shall appear by the confession of the offender, or by competent testimony, that he or she is a disorderly person, the justice may require of the offender sufficient sureties for his or her good behavior for the space of one year. In default of such sureties being found, the justice shall make up, sign and file in the county clerk's office, a record of the conviction of such offender as a disorderly person, specifying generally the nature and circumstances of the offence, and shall, by warrant under his hand, commit such offender to the common jail of the city or county, there to remain until such sureties be found, or such offender be discharged according to law.³⁴

Surety for
good behavior.

Record of
conviction
and commit-
ment.

(34) 1 R. L. 114, § 1 ; Ib. 154, § 9 : Laws of 1819, p. 240.

§ 3. It shall be deemed a breach of such recognizance, for any person so bound on account of being a gamester, at any one time or sitting to play or bet for any money or other thing exceeding the sum or value of two dollars and fifty cents. In all other cases, the committing any of the acts which constituted the person so bound a disorderly person, shall be deemed a breach of the condition of such recognizance.³⁵

TITLE 5.
Breaches of
recognizance

§ 4. If any breach of such recognizance for good behavior happen, such recognizance shall be prosecuted at the instance of any overseer of the poor, county superintendent of the poor, or justice of the peace, and the penalty when collected, shall be paid into the county treasury, for the benefit of the poor of such county.

Prosecutions
therefor.

§ 5. Upon a recovery being had, upon any such recognizance, the court before which it shall be had, may, in its discretion, either require new sureties for good behavior to be given, or may commit the offender to the common jail of the city or county, for any term not exceeding six calendar months.

Consequen-
ces of reco-
very.

§ 6. Any person committed to the common jail for not finding sureties for good behavior, may be discharged by any two justices of the peace of the county, upon giving such sureties for good behavior as were originally required from such offender.³⁶

Two justices
may dis-
charge in cer-
tain cases

§ 7. It shall be the duty of the keeper of every jail, to lay before the court of general sessions of the peace, on the first day of its meeting, next after the commitment of any disorderly person, a list of the persons so committed and then in his custody, with the nature of their offences, the name of the justice committing them, and the time of imprisonment.

Jail-keeper
to exhibit
lists, &c. to
general ses-
sions.

§ 8. The court of general sessions of the peace shall inquire into the circumstances of each case, and hear any proofs that may be offered, and shall examine the record of conviction, which shall be deemed presumptive evidence of the facts therein contained, until disproved.³⁷

Duty of court

§ 9. The court may discharge such disorderly person from confinement, either absolutely or upon receiving sureties for his or her good behavior, in its discretion; or the said court may, in its discretion, authorise the county superintendents of the poor, or the overseers of the poor of any town, or the commissioners of any alms-house, to bind out such disorderly persons as shall be minors, in some lawful calling, as servants, apprentices, mariners, or otherwise, until they shall be of full age respectively; or to contract for the service of such disorderly persons as shall be of full age, with any person, as laborers, servants, apprentices, mariners, or otherwise, for any term not exceeding one year; which binding out and contracts shall be as valid

Court may
discharge, or
authorise
binding out.

Effect of
indentures.

TITLE C and effectual, as the indenture of any apprentice with his own consent, and the consent of his parents, and shall subject the persons so bound out or contracted, to the same control of their masters respectively, and of the court of general sessions of the peace, as if they were so bound as apprentices.³⁷

May commit to jail.

§ 10. The said court may, in its discretion, order any such disorderly person to be kept in the common jail for any term not exceeding six months at hard labor; or may direct that, during any part of the time of imprisonment, not exceeding thirty days, such offender shall be kept on bread and water only.

Disorderly persons may be compelled to work, &c.

§ 11. If there be no means provided in such jail for employing offenders at hard labor, the court may direct the keeper thereof to furnish such employment as it shall specify, to such disorderly persons as shall be committed thereto, either by a justice or any court, and for that purpose to purchase any necessary raw materials and implements, not exceeding in amount such sum as the court shall prescribe, and to compel such persons to perform such work, as shall be so allotted to them.

Expenses how defrayed.

§ 12. The expenses incurred in pursuance of such order, shall be paid to the keeper by the county treasurer, on the production of the order of the court, and an account of the materials purchased, verified by the oath of the keeper.

Disposition of proceeds; accounting for.

§ 13. The keeper shall sell the produce of such labor, and shall account for the first cost of the materials purchased, and for one half of the surplus, to the board of supervisors, and pay the same into the county treasury; and the other half of such surplus shall be paid to the person earning the same, on his or her discharge from imprisonment. The keeper shall account to the court whenever required, for all materials purchased, and for the disposition of the proceeds of the earnings of such offenders.

TITLE VI.

OF THE SUPPORT OF BASTARDS.

- Sec. 1. Who are to be deemed bastards.
2. To be supported by father and mother, or by county or town.
3. Penalty for removing mother of bastard; how supported after removal.
4. Mother and child, paupers; proceedings against county or town from which she was removed.
5. Superintendents and overseers to institute proceedings to compel support of bastards.
6. Justice to ascertain father of bastard, and issue a warrant.
7. Proceedings when father out of the county; indorsement of warrant, &c.
8. Justice indorsing warrant may take one of two bonds, from father.
9. Proceedings upon bond being executed.
10. Upon failure to execute bond, father to be carried before justice issuing warrant.
11. Who shall associate another justice; their duties and powers.
12. When and for what time proceedings may be adjourned.
13. Powers and duties of justices, on hearing.

14. Person adjudged to be father, to pay costs, and enter into bond.
15. On executing bond, to be discharged ; on failure, to be committed.
16. Amount of penalty in bonds for appearance of father.
17. Father to remain in custody during examination ; when and how imprisoned.
18. Proceedings when bond given by father out of the county.
19. In what cases examination to be had in presence of father.
20. Mother of bastard how compelled to disclose name of father.
21. In what cases, and how, mother compelled to support bastard.
22. Proceedings in case of her refusal to obey order for support.
23. When amount ordered to be paid may be reduced ; when it may be increased.
24. Appeals from determinations of justices ; notice thereof.
25. Justice not to sit in general sessions on appeals from his order.
26. Bonds for appearance, orders, &c. when to be transmitted to general sessions.
27. Subpoenas to be issued for parties in appeal ; effect thereof.
28. Proceedings of court on appeal ; testimony of mother.
29. Court may quash, affirm, or vary orders, and may adjourn hearing.
30. In what cases father to be discharged from custody or from bond.
31. Proceedings by general sessions on affirming order of filiation.
32. Father neglecting to give bond as required, to be committed.
33. When bond for appearance of father at court, to be forfeited.
34. Duty of general sessions when mother bound to appear, &c.
35. In what cases order against mother may be confirmed or varied, or discharged.
36. If order be affirmed, proceedings to compel obedience.
- 37 & 38. Costs on appeal, how awarded and collected.
39. Original order of filiation, when to be made by court, &c.
40. Proceedings by justices, on order of filiation being quashed for informality.
41. Court to inquire into circumstances of father or mother imprisoned.
42. In what cases to order discharge of father or mother.
43. Notice to be given to superintendents or overseers, before discharge.
44. Persons imprisoned under this Title, not entitled to discharge under insolvent act.
45. Bonds for appearance to be signed and transmitted to court.
46. How to be prosecuted on forfeiture ; recovery how to be paid and applied.
47. By whom bonds for support of bastard, to be prosecuted, on breach.
48. Proceedings thereon ; what to be deemed breaches thereof.
49. Proceedings for subsequent breaches ; recovery how applied.
50. Costs on recovery by defendant, how collected.
51. Actions for expense of bastard, &c. may be brought, although there is a bond.
52. Proceedings against father or mother of bastard absconding, &c.
53. Poor mother and bastard how to be supported.
54. Mother and child not to be removed without her consent.
55. Overseers to notify superintendents of cases of bastardy, when county chargeable.
56. Duty of superintendents to provide for mother and child.
57. Until taken charge of by superintendents, to be supported by overseers.
58. Overseers of towns to support bastard and mother, whether chargeable or not.
59. Monies received by overseers from parents of bastard, how applied, &c.
60. Such monies received on account of bastard chargeable to county, to be paid over.
61. Disputes concerning settlement of bastard, how determined.
- 62, 63, & 64. Proceedings when bastard is chargeable to another town.
65. Mode of ascertaining sum to be allowed for support of bastard, &c.
66. When mother and child to be removed to county poor-house.
67. Penalty on superintendents and overseers for neglect to support bastards, &c.
68. Compromise with putative fathers may be made in New-York.
69. Penalty on constable, &c. for neglect to deliver over bonds.
70. Justice not liable for endorsing warrants under this Title.
71. Provision in case of death, absence, &c. of justice issuing a warrant.

§ 1. Every child shall be deemed a bastard within the meaning of ^{who are} this Title, who shall be begotten and born, ^{bastards.}

1. Out of lawful matrimony :
2. While the husband of its mother continued absent out of this state, for one whole year previous to such birth, separate from its

TITLE 6. mother, and leaving her during that time continuing and residing in this state :

3. During the separation of its mother from her husband, pursuant to a decree of any court of competent authority.²⁸

How supported.

§ 2. The reputed father and the mother of every bastard shall be liable for its support; in their default or inability, it shall be supported by the county or town in which it shall be born, as herein after provided.

Removal of mother prohibited; how supported after removal.

§ 3. If the mother of any bastard, or of any child likely to be born a bastard, shall be removed or clandestinely brought, or enticed to remove, into any county, from any other county of this state, for the purpose of avoiding the charge of such bastard or child upon the county or any town, from which she shall have been so brought or enticed to remove, the same penalties shall be imposed on every person so bringing, removing or enticing such mother to remove, as are provided in the case of the clandestine or fraudulent removal of a pauper. Such mother, if unable to support herself, shall be supported during her confinement and recovery therefrom, and her child shall be supported, by the county superintendents of the poor, of the county where she shall be, if no provision be made by the father of such child.

Proceedings to compel support of mother and child, by town or county from which they were removed.

§ 4. Such mother and her child shall in all respects be deemed paupers; and the same proceedings may be had by the county superintendents to charge the town or county from which she was removed or enticed, for the expense of supporting her and her child, as are provided in the case of paupers fraudulently or clandestinely removed; and an action may be maintained in the same manner for the said expenses, and for all expenses properly incurred in securing the father of such child, or in seeking to compel its support by such father or its mother.

Duty of superintendents and overseers.

§ 5. If any woman shall be delivered of a bastard child, which shall be chargeable or likely to become chargeable to any county, city or town; or shall be pregnant of a child likely to be born a bastard, and to become chargeable to any county, city or town; the superintendents of the poor of the county, or any of them, or the overseers of the poor of the town or city, or any of them, where such woman shall be, shall apply to some justice of the peace of the same county to make inquiry into the facts and circumstances of the case.

Proceedings of justice to ascertain father.

§ 6. Such justice shall, by examination of such woman on oath, and upon such other testimony as may be offered, ascertain the father of such bastard, or of such child likely to be born a bastard; and shall thereupon issue his warrant, directed to any constable of the county, commanding him forthwith to apprehend such reputed father, and to bring him before such justice, for the purpose of having an adjudica-

tion respecting the filiation of such bastard, or of such child likely to be born a bastard.³⁹ TITLE 6.
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§ 7. If the person charged as such reputed father, shall be or reside in any other county of the state, than that in which such warrant issued, the justice issuing the same shall in writing thereon, direct the sum in which any bond shall be taken of the person so charged ; and it shall be the duty of the constable, or other proper officer having the same, to carry it to some justice of the city or county wherein such person resides, or can be found. The justice to whom the same shall be presented, on proof being made to him of the hand writing of the justice who issued such warrant, shall endorse his name thereon, with an authority to arrest such person in the county where the justice so endorsing shall reside ; which shall be a sufficient authority to the person bringing such warrant, and to all others to whom it was originally directed, to execute the same in the county where it was endorsed.<sup>40</sup> Proceedings against father out of the county.  
  
Endorsement of warrant.

§ 8. Upon the person so charged being apprehended, he shall be carried before the justice who endorsed the said warrant, or some other justice of the same county, who may take from such person a bond to the people of this state, with good and sufficient sureties in the sum so directed on the said warrant, with condition to indemnify the county, and town, or city, where the said bastard shall have been born, or where the woman likely to have such bastard shall be, and every other county, town or city, which may have incurred any expense, or may be put to any expense for the support of such child, or of its mother during her confinement and recovery therefrom, against all such expenses, and to pay the costs of apprehending such father, and of any order of filiation that may be made ; or such justice may take from the person so charged and apprehended, a bond as aforesaid, in the sum directed on the said warrant, with good and sufficient sureties, conditioned that such person will appear at the next court of general sessions of the peace to be holden in the county where such warrant was originally issued, and not depart the said court without its leave.<sup>40</sup> Bond to be taken by justice endorsing warrant.

§ 9. Upon a bond being so entered into, with either of the conditions aforesaid, the justice taking the same shall discharge the person so apprehended from the arrest, and shall endorse upon the warrant a certificate to that effect. He shall deliver the warrant with the bond so taken by him, to the constable who brought such warrant, who shall deliver the same to the justice who granted the same, who shall proceed thereupon in the same manner as if such bond had been taken by him.<sup>40</sup> Proceedings upon bond being executed.

§ 10. If the person so charged and apprehended shall not execute the bond so required, with one or other of the conditions aforesaid, to Ib. upon failure to execute bond.

## TITLE 6.



the satisfaction of the justice before whom he shall be brought, then the constable or other proper officer having such warrant, shall take the person so apprehended, before the justice who originally issued such warrant.<sup>41</sup>

Justice to  
associate  
another.

§ 11. Upon the person so charged with being the father of such bastard, or of such child likely to be born a bastard, being brought before the justice who issued the warrant for his apprehension, whether he was arrested in the same or in any other county, the said justice shall immediately call to his aid any other justice of the same county; and the said two justices shall proceed, without unnecessary delay, to make examination of the matter, and shall again examine the mother of such bastard, or the woman so pregnant as aforesaid, on oath, in the presence of the person so charged or apprehended, touching the father of such child, and shall hear any proofs that may be offered in relation thereto; and on the application of the person so charged, or of the persons appearing in behalf of the public, either of the said justices shall issue a subpoena to compel the attendance of witnesses before them, which may be enforced, and the witnesses may be compelled to appear and testify, in the same manner as in any civil cause, before a justice of the peace.

Proceedings  
by them.

Adjournment  
of proceed-  
ings.

§ 12. If the said justices shall not be prepared to proceed, or the person charged shall require delay, and give sufficient reasons therefor, they may adjourn such examination for any time not exceeding six weeks, and shall take a bond with sureties, from such person for his appearance at such time, before them, in the penalty herein after directed.

Proceedings  
and determi-  
nation of  
justices on  
hearing.

§ 13. The said justices shall determine who is the father of such bastard, or of such child likely to be born a bastard, and shall proceed as follows:

1. If they determine that the person so charged and apprehended, is not the father of such bastard, or child, he shall be forthwith discharged:
2. If they determine that he is such father, they shall make an order of filiation, in which they shall specify the sum to be paid weekly, or otherwise, by such putative father, for the support of such bastard, or of such child likely to be born a bastard:
3. If the mother of such child be in indigent circumstances, they shall determine the sum to be paid by such putative father, for the sustenance of such mother during her confinement, and her recovery therefrom:
4. They shall certify the reasonable costs of apprehending and securing the said father, and of the order of filiation:
5. They shall reduce their proceedings to writing, and subscribe the same.

§ 14. Such person, so adjudged to be the reputed father, shall, upon notice of such order, immediately pay the amount so certified for the costs of apprehending him, and of the order of filiation; and shall enter into a bond to the people of this state, in such sum as such justices shall direct, with good and sufficient sureties, to be approved by them, with one or other of the following conditions: First, that such person will pay weekly, or otherwise, as shall have been ordered, such sum for the support of the said child, and for the sustenance of its mother as aforesaid, as shall have been ordered, or shall at any time thereafter be ordered by the court of general sessions of the peace of the same county; and that he will fully and amply indemnify the county and town, or city, where the said bastard shall have been born, or where the woman likely to have such bastard shall be, and every other county, town or city, which may have incurred any expense, or may be put to any expense for the support of such child, or its mother, during her confinement and recovery therefrom, against all such expenses: Or, second, that such person will appear at the next court of general sessions of the peace of the said county, and not depart the said court, without its leave.

**TITLE 6.**  
Costs to be paid by person adjudged reputed father, and bond to be entered into.

§ 15. Upon such bond being executed to the satisfaction of the justices, they shall discharge such person from his arrest. But if he refuse or neglect to execute a bond with one of the conditions aforesaid, or to pay the costs and charges so certified, he shall be committed by such justices, or either of them, to the common jail of the city or county, by warrant, there to remain until discharged by the court of general sessions of the peace, or until he shall execute such bond, in the penalty which shall have been required by the justices.

When father to be discharged; when to be committed

§ 16. The penalty of every bond which shall be taken for the appearance of any such reputed father, either before justices of the peace, or at the court of general sessions, shall, in all cases, be such a sum, as shall be deemed a full indemnity, for the expense of supporting such bastard and its mother, as before provided.

Penalty of certain bonds

§ 17. During such examination, and until such person shall be discharged by the justices aforesaid, he shall remain in custody of the constable who apprehended him, unless a bond shall have been taken for his appearance as herein provided; and when committed to any jail, he shall be confined therein, without being let to bail, and without being entitled to the liberties thereof.

Father how disposed of during examination, &c.

§ 18. When any bond taken out of the county as aforesaid, by which the person charged shall be bound to appear at the next court of general sessions of the peace, shall be returned to the justice who issued the warrant, such justice shall in like manner, call in the aid of another justice of the peace of the same county; and the said two justices shall proceed in manner aforesaid, to examine and determine who is the father of such bastard, or of such child likely to be born a

Proceedings in case of bond given out of the county.

**TITLE 6.** bastard; and shall make an order of filiation, and prescribe the sum to be paid by such putative father, for the support of such child, and for the sustenance of the mother as aforesaid; and shall certify the reasonable costs of apprehending the said father, and of the order of filiation.

Examination  
in such case.

§ 19. Such examination and order may be made in the absence of the person so charged, unless before the same be made, he shall personally require of the justice issuing the warrant, that such examination be made in his presence; in which case, reasonable notice of the time and place of such examination shall be given to the person so charged. He may appear and offer testimony in relation to the matters to be inquired into, and the same proceedings shall be had, as in the case of the person so charged being brought before such justice.

Mother of  
bastard, how  
compelled to  
testify.

§ 20. In making any examination hereby authorised, the justice, or justices, may compel the mother of a bastard so chargeable, or likely to become chargeable, or a woman pregnant with a child likely to be born a bastard and to become so chargeable, to testify and disclose the name of the father of such bastard or child; and in case of her refusal, may, after the expiration of one month from the time of her delivery, if she shall be sufficiently recovered, commit her to the common jail of the county, by a warrant under his hand, or the hands of such justices, in which the cause of commitment shall be distinctly set forth, there to remain until she shall testify and disclose the name of such father.<sup>42</sup>

Mother when  
compelled to  
support bast-  
ard.

§ 21. If the mother of a bastard child, chargeable, or likely to become chargeable, as before declared, be possessed of any property in her own right, any two justices of the peace of the county where such mother may be, on the application of any county superintendent, or overseer of the poor, shall examine into the matters, and in their discretion, make order for the keeping of such bastard, by charging such mother with the payment of money weekly, or other sustentation, for the support of such child, as they shall think meet.<sup>43</sup>

Proceedings  
in case of re-  
fusal.

§ 22. If, after the service of such order, subscribed by the said justices, upon such mother, she shall refuse or neglect to perform the same, she shall be committed to the common jail of the county, there to remain, without bail, until she comply with such order, unless she shall execute a bond to the people of this state, in such sum as the said justices shall direct, with good and sufficient sureties, to appear at the then next court of general sessions of the peace, in the said county, and not to depart the said court, without its leave.

Amount or-  
dered to be  
paid, may be  
reduced or in-  
creased.

§ 23. The justices who shall have made any order of filiation or maintenance against the father or mother of any bastard, may from time to time vary the amount therein directed to be paid, by reducing the same as circumstances may require; and upon the application of



any county superintendent or overseer of the poor interested therein, and after ten days' notice to be given to the party who may be affected thereby, the court of general sessions of the peace of the county, may increase the sum in and by such order directed to be paid for the support of any bastard; and the said court, on the application of any person affected by such order, and after the same notice to the superintendents or overseers at whose instance it was procured, may reduce the amount directed to be paid by any such order.

TITLE 6.

§ 24. Any person who shall think himself aggrieved by any order or determination of any two justices of the peace, made pursuant to any authority hereby given, may appeal therefrom to the next court of general sessions of the peace to be holden in the same county, excepting any person who shall have executed a bond, to perform any order of filiation and of settlement and to indemnify the public, who shall be concluded thereby, and shall not be permitted to appeal from any other part of such order, than such as fixes the weekly or other allowance to be paid. Whenever a bond shall be entered into by a person charged as the father of a bastard, or of a child likely to be born a bastard, or by the mother of a bastard, for his or her appearance at the next court of general sessions, the same shall be deemed an appeal from the order of filiation or sustenance, or both, as the case may be, and no further or other notice thereof shall be required. In other cases of appeal, notice shall be given to the justices making the order, and to the other party affected by such order, or to the superintendent or overseers at whose instance the same was obtained, at least ten days previously.<sup>44</sup>

Appeals from adjudications of justices.

Bond for appearance to be deemed an appeal.

Notice in other cases.

§ 25. No justice of the peace who shall have assisted in any judgment or in making any order appealed from, shall sit in the court of general sessions upon the hearing of any appeal, made from such judgment or order.<sup>44</sup>

Justice making order not to sit on appeal.

§ 26. The justices who shall have taken or received any bond for the appearance of any party at the general sessions, shall transmit the same to the clerk of the court before the opening thereof, together with the orders of maintenance and sustenance which shall have been made, or true copies thereof signed by the justices making the same.

Bonds, &c. when to be filed in clerk's office.

§ 27. Subpœnas shall be issued by the clerk of the court in vacation as well as in term, and be delivered to any party to such appeal, requiring the same: and obedience to such subpœnas shall be enforced, and the witnesses summoned may be compelled to testify, in the same manner as in criminal cases pending in such court.

Subpœnas on appeals

§ 28. The court to which such appeal may be made, shall proceed to hear the allegations and proofs of the respective parties, and the party

Proceedings on hearing appeal.

**TITLE 6.** in whose favor any order was made, which shall be the subject of appeal, shall be required to substantiate the same by evidence. If the mother of any bastard be dead or insane, the testimony given by her on her examination, shall be received in the same manner as if she were present and testified to the same.<sup>45</sup>

**Court may affirm, quash or vary orders.** § 29. The court may affirm or quash any order of filiation or sustenance, or may reduce or increase the sum directed by any such order to be paid for the support of a bastard or for the sustenance of its mother; but no such order shall be quashed for any defects in the form thereof; but the same shall be amended by the said court according to the facts and justice of the case. If at the time of hearing such appeal the child supposed likely to be born a bastard, shall not be born, the court may adjourn such hearing from time to time, until such child be born, and shall take a recognizance from all parties bound to appear.

**When hearing may be adjourned.**

**In certain cases father to be discharged** § 30. If the woman so pregnant shall be married, before she be delivered of such child, or if she shall miscarry so that such child shall not be born alive, or if it shall appear that she is not so pregnant, then the person charged as the father of such child, shall be discharged from custody if imprisoned, or from his bond or recognizance, by the court of general sessions of the peace of the county, before whom such fact shall appear, or shall be immediately relieved out of custody, by warrant under the hands and seals of the justices by whom he was committed, upon such fact appearing to them.<sup>46</sup>

**On affirmation of order of filiation, father to give bond.** § 31. If, upon such hearing, the court of general sessions of the peace affirm the order of filiation, by which any person shall be determined to be the father of a bastard, or a child likely to become a bastard, the said court shall require such person immediately to enter into a bond to the people of this state, in such sum as it shall prescribe, with good and sufficient sureties, conditioned that such person shall pay weekly or otherwise, as shall have been directed by the order of filiation and sustenance, such sum for the support of such bastard or child, and for the sustenance of its mother during her confinement and recovery therefrom, as shall have been so ordered by two justices of the peace or as the same shall have been or thereafter shall be, modified by the court of general sessions of the peace, and that he will fully and amply indemnify the county and town, or the county and city, where the said bastard shall have been born, or where the woman likely to have such bastard shall be, and every other county, town or city, which may have incurred any expense, or which may be put to any expense, for the support of such child or its mother, during her confinement and recovery therefrom.

(45) 1 R. L. 310, § 12. (46) *Ib.* 307, § 3.

§ 32. If any person against whom such order shall be affirmed, shall refuse or neglect to execute such bond, with such sureties, to the satisfaction of the said court, he shall be committed to the common jail of the county by an order of such court, there to remain until he shall execute such bond or be discharged by the said court.

TITLE 6.  
Consequences of neglect

§ 33. If any person bound to appear at any court of general sessions, on the charge of being the father of a bastard, or of a child likely to be born a bastard, shall depart the said court without executing the bond it may require, or without being discharged by the said court from the bond executed by such person for his appearance, the said bond shall be thereby deemed to be forfeited, and may be prosecuted as herein after directed.

Bond for appearance when forfeited.

§ 34. Where the mother of any bastard shall be bound to appear at any court of general sessions, to answer on account of any order made against her, for the support of such bastard, or shall be committed for neglect or refusal to enter into such bond, the court shall examine into the matter, compel the attendance of witnesses, and hear the allegations and proofs of the parties, in the same manner as herein before directed in the case of an appeal.

Proceedings in respect to mother bound to appear. &c.

§ 35. If the court shall be satisfied that such mother has property in her own right, so as to be able to support such bastard or contribute to its support, it shall confirm the order made for that purpose, and may in its discretion, vary the amount ordered to be paid weekly or otherwise. If not so satisfied, the court shall discharge such woman from her bond, and if in custody, from her imprisonment.

Court may affirm, vary or discharge order.

§ 36. If the court affirm such order, it shall require the said mother to execute a bond, in such sum as it shall prescribe, with sufficient sureties, to the people of this state, conditioned that such mother will faithfully comply with and obey the order for the support of such bastard, so made and affirmed, as the same shall have been modified, or may thereafter be modified by the court of general sessions of the peace. If she shall refuse or neglect to execute such bond, she shall be committed, by an order of the said court, to the common jail of the county, there to remain until she shall execute such bond, or until she shall be discharged by the court.

Proceedings on affirming order.

§ 37. The court shall award costs to the party in whose favor any such appeal shall be determined, and to any party to whom notice of appeal shall be given and not prosecuted. When awarded against any county superintendents, or overseers of the poor of any town not liable for the support of its own poor, the amount shall be paid by the county treasurer, on the production of a certified copy of the order, and of the taxed bill of such costs, and shall be by him charged to the town which shall be bound to support such bastard, if any town in the same county be so liable, and if there be no town so liable, then to be charged to the county.

Costs on appeal.

TITLE 6.  
Costs on appeal.

§ 38. In other cases, the payment of such costs may be enforced by rule and attachment of the same court, or by an action founded on the order for their payment. If the party against whom costs are awarded, reside out of the jurisdiction of the court of general sessions, an action may be brought on such order by the party entitled to such costs, in which the production of a certified copy of the order, and of a taxed bill of the costs, shall be sufficient evidence.<sup>47</sup>

When court may make original order of filiation.

§ 39. If the court of general sessions quash any order of filiation and maintenance, for any other reason than upon the merits and facts, such court shall proceed and make an original order of filiation, in the same manner as any two justices of the peace may, by law; or such court shall bind over the person charged, to appear at the next general sessions.

Proceedings when order quashed for informality.

§ 40. In case of any order being quashed, for any other reason than on the merits, and the person charged being bound over as aforesaid, the same proceedings may be had by the justices of the peace for the apprehension of the person charged as father of a bastard, or of a child likely to be born a bastard, and for the making of an order of filiation and maintenance, and for the commitment of such person in default of executing any bond required by law, as are herein authorised in the first instance. And the same proceedings shall be subsequently had in all respects.

When father or mother imprisoned, duty of court.

§ 41. Whenever any person shall be committed to prison charged as the father of a bastard, or of a child likely to be born a bastard, and whenever any mother of a bastard shall be so committed, for their default in not executing a bond to support such child, or to indemnify the public, it shall be the duty of the court of general sessions of the peace of the county, to inquire from time to time into the circumstances and ability of such father or mother to support such bastard, or to procure sureties to be bound with either of them.

When to be discharged.

§ 42. If the court shall at any time be satisfied that such father or mother is wholly unable to support such child, or to contribute to its support, or to procure sureties to be bound with either of them, the said court may, in its discretion, order such father or mother to be discharged from such imprisonment.

Certain notice before discharge, to be given.

§ 43. Before any order for such discharge shall be entered, the court shall be satisfied, that reasonable notice has been given to the overseers of the poor, or the county superintendents, at whose instance such father or mother may have been committed, of the intention to apply for such discharge, and shall hear the allegations and proofs of the said superintendents or overseers, and may examine such father or mother on oath, in relation to their circumstances.

§ 44. Whenever a father or mother shall be lawfully committed for the causes in the last section specified, or either of them, he or she shall not be discharged from imprisonment under or by virtue of any insolvent act, or other act for the relief or discharge of imprisoned debtors, or in any other way, until discharged by the court of general sessions of the peace of the county.

TITLE 6.  
Insolvent acts, &c. not to apply to persons imprisoned under this Title.

§ 45. The bonds taken by any justice or justices of the peace, for the appearance of any person charged as the father of a bastard, or of a child likely to be born a bastard, or for the appearance of any mother of a bastard child, at any court of general sessions of the peace, shall be signed by the persons binding themselves as principal and sureties, and shall be transmitted by the justice taking the same, or receiving the same from any constable as herein provided, to the said court, at the opening of the next term thereof.

Bonds for appearance, to be signed; to be transmitted to court.

§ 46. If any default shall be made, by which such bond shall become forfeited, the court shall cause the same to be prosecuted by the district attorney of the county, and the penalty thereof shall be recovered, and when collected, shall be paid to the county treasurer, to be by him credited to the town liable for the support of the bastard, if there be any such town in the county, and if there be none, then to be credited to the county.

How to be prosecuted, &c.

§ 47. Whenever a bond shall be taken to perform any order that may be made in relation to the support of any bastard, or of any child likely to be born a bastard, or for the sustenance of its mother, and any breach shall happen in the condition thereof, the same may be prosecuted in the name of the people of this state, by the county superintendents of the county, or the overseers of the poor of the town, which was liable for the support of such bastard or child, or which may have incurred any expense in the support of such bastard or child, or in the sustenance of its mother during her confinement and recovery therefrom.

Prosecution of bonds to support bastards.

§ 48. In such action, the breaches of the condition shall be assigned as in actions brought on bonds with condition other than for the payment of money, and the same proceedings shall be had in all respects. It shall not be necessary to prove the actual payment of money by any county superintendent, overseer of the poor, or other person, but the neglect to pay any sum which shall have been ordered to be paid by any competent authority, for the support of the child, or the sustenance of its mother, shall be deemed a breach of the condition of such bond, and the amount of damages to be assessed in such case, shall be the sum which was so ordered to be paid, and which was withheld up to the time of the commencement of such suit, with interest thereon.

Proceedings thereon; what to be deemed a breach.

TITLE 6.  
Costs on appeal.

§ 38. In other cases, the payment of such costs may be enforced by rule and attachment of the same court, or by an action founded on the order for their payment. If the party against whom costs are awarded, reside out of the jurisdiction of the court of general sessions, an action may be brought on such order by the party entitled to such costs, in which the production of a certified copy of the order, and of a taxed bill of the costs, shall be sufficient evidence.<sup>47</sup>

When court may make original order of filiation.

§ 39. If the court of general sessions quash any order of filiation and maintenance, for any other reason than upon the merits and facts, such court shall proceed and make an original order of filiation, in the same manner as any two justices of the peace may, by law; or such court shall bind over the person charged, to appear at the next general sessions.

Proceedings when order quashed for informality.

§ 40. In case of any order being quashed, for any other reason than on the merits, and the person charged being bound over as aforesaid, the same proceedings may be had by the justices of the peace for the apprehension of the person charged as father of a bastard, or of a child likely to be born a bastard, and for the making of an order of filiation and maintenance, and for the commitment of such person in default of executing any bond required by law, as are herein authorised in the first instance. And the same proceedings shall be subsequently had in all respects.

When father or mother imprisoned, duty of court.

§ 41. Whenever any person shall be committed to prison charged as the father of a bastard, or of a child likely to be born a bastard, and whenever any mother of a bastard shall be so committed, for their default in not executing a bond to support such child, or to indemnify the public, it shall be the duty of the court of general sessions of the peace of the county, to inquire from time to time into the circumstances and ability of such father or mother to support such bastard, or to procure sureties to be bound with either of them.

When to be discharged.

§ 42. If the court shall at any time be satisfied that such father or mother is wholly unable to support such child, or to contribute to its support, or to procure sureties to be bound with either of them, the said court may, in its discretion, order such father or mother to be discharged from such imprisonment.

Certain notice before discharge, to be given.

§ 43. Before any order for such discharge shall be entered, the court shall be satisfied, that reasonable notice has been given to the overseers of the poor, or the county superintendents, at whose instance such father or mother may have been committed, of the intention to apply for such discharge, and shall hear the allegations and proofs of the said superintendents or overseers, and may examine such father or mother on oath, in relation to their circumstances.

§ 44. Whenever a father or mother shall be lawfully committed for the causes in the last section specified, or either of them, he or she shall not be discharged from imprisonment under or by virtue of any insolvent act, or other act for the relief or discharge of imprisoned debtors, or in any other way, until discharged by the court of general sessions of the peace of the county.

TITLE 6  
Insolvent acts, &c. not to apply to persons imprisoned under this Title.

§ 45. The bonds taken by any justice or justices of the peace, for the appearance of any person charged as the father of a bastard, or of a child likely to be born a bastard, or for the appearance of any mother of a bastard child, at any court of general sessions of the peace, shall be signed by the persons binding themselves as principal and sureties, and shall be transmitted by the justice taking the same, or receiving the same from any constable as herein provided, to the said court, at the opening of the next term thereof.

Bonds for appearance, to be signed; to be transmitted to court.

§ 46. If any default shall be made, by which such bond shall become forfeited, the court shall cause the same to be prosecuted by the district attorney of the county, and the penalty thereof shall be recovered, and when collected, shall be paid to the county treasurer, to be by him credited to the town liable for the support of the bastard, if there be any such town in the county, and if there be none, then to be credited to the county.

How to be prosecuted, &c.

§ 47. Whenever a bond shall be taken to perform any order that may be made in relation to the support of any bastard, or of any child likely to be born a bastard, or for the sustenance of its mother, and any breach shall happen in the condition thereof, the same may be prosecuted in the name of the people of this state, by the county superintendents of the county, or the overseers of the poor of the town, which was liable for the support of such bastard or child, or which may have incurred any expense in the support of such bastard or child, or in the sustenance of its mother during her confinement and recovery therefrom.

Prosecution of bonds to support bastards.

§ 48. In such action, the breaches of the condition shall be assigned as in actions brought on bonds with condition other than for the payment of money, and the same proceedings shall be had in all respects. It shall not be necessary to prove the actual payment of money by any county superintendent, overseer of the poor, or other person, but the neglect to pay any sum which shall have been ordered to be paid by any competent authority, for the support of the child, or the sustenance of its mother, shall be deemed a breach of the condition of such bond, and the amount of damages to be assessed in such case, shall be the sum which was so ordered to be paid, and which was withheld up to the time of the commencement of such suit, with interest thereon.

Proceedings thereon; what to be deemed a breach.

## TITLE 4.

Subsequent breaches; application of recovery.

§ 49. For any breaches of the condition of such bond which shall happen after the recovery of any damages, or the commencement of any suit, a *scire facias* may be issued, and the same proceedings had, as in actions brought on bonds with conditions other than for the payment of money. All monies which shall be collected upon any such bond, shall be paid to the county treasurer, and by him credited to the town liable for the support of such bastard, if there be any such town in the county, and if there be none, then to be credited to the county.

Costs on judgment for defendant; how collected.

§ 50. If in any such suit upon a bond, in the name of the people, the same shall be discontinued, or non-prossed, or judgment shall pass for the defendant on verdict, demurrer or otherwise, the relators, and their successors in office, shall be liable to pay such costs as the court shall award; which payment may be enforced by rule and attachment of the court, and shall be reimbursed by the county treasurer, and be by him charged to the town liable for the support of such bastard, if there be any such town in the same county, and if there be none, to the county.

Giving of bond not to prevent actions for expense of bastards, &c.;

§ 51. An action may be maintained by the county superintendents of the county, or by the overseers of the poor of the town, which may be liable for the support of any bastard, or child likely to be born a bastard, or which may have incurred any expense, or be liable to any expense, in the support of such child or the sustenance of its mother, upon any order that may be made by any two justices of the peace, or by a court of general sessions, for the payment of a sum weekly, or otherwise, for such support or sustenance, notwithstanding a bond may have been executed to comply with such order, and to indemnify any such county or town; and in case of the death of the person against whom such order was made, an action may also be maintained on such order against his executors or administrators. But when a bond is entered into, to appear at the next general sessions of the peace, no action shall be brought on any such order, until the same shall have been affirmed by the said general sessions.

may be brought against executors, &c.

Proceedings against father or mother of bastard, absconding, &c.

§ 52. If the putative father or mother of any bastard, or of any child likely to be born a bastard, and to become chargeable, shall run away from the place of their ordinary residence, leaving such bastard or child chargeable, or likely to become chargeable to the public, the overseers of the poor of the town, or the superintendents of the poor of the county, where any such bastard shall be born or be likely to be born, may apply to any two justices of the peace of the county where any estate, real or personal, of the putative father or mother of such bastard shall be, for authority to seize and take such real and personal estate. Upon due proof being made, to the satisfaction of such justices, of the said facts, they shall issue their warrant, in the same manner as is provided in the first Title of this Chapter, in relation to parents absconding and leaving their children chargeable; and the same



proceedings, in all respects, shall be had thereon, and the overseers and superintendents shall account to the general sessions, in the manner therein provided.<sup>48</sup>

TITLE 8.

§ 53. The mother of every bastard, who shall be unable to support herself, during her confinement and recovery therefrom, and every bastard, after it is born, shall be supported as other paupers are required to be supported by law, at the expense of the town where such bastard shall be born, if the mother have a legal settlement in such town, and it be required to support its own poor; if the mother have a settlement in any town of the same county, which is required to support its own poor, then at the expense of such town; in all other cases, they shall be supported at the expense of the county where such bastard shall be born.

Mother and bastard, how to be supported.

§ 54. Such mother and her child shall not be removed from any town to any other town in the same county, nor from one county to any other county, in any case whatever, unless voluntarily taken to the county or town liable for their support, by the county superintendents of such county or the overseers of the poor of such town.

Mother not to be removed without her consent.

§ 55. The overseers of the poor of any town where a woman shall be pregnant of a child likely to be born a bastard, or where a bastard shall be born, which child or bastard shall be chargeable, or likely to become chargeable to the county, shall, immediately on receiving information of such fact, give notice thereof to the county superintendents, or one of them.

When overseers to notify superintendents of cases of bastardy.

§ 56. The county superintendents shall provide for the support of such bastard and its mother, in the same manner as for the poor of such county.

Superintendents to support mother and child.

§ 57. Until the county superintendents take charge of and provide for the support of such bastard and its mother so chargeable to the county, the overseers of the poor of the town shall maintain and provide for them; and for that purpose, the same proceedings shall be had as for the support of a pauper chargeable to the county, who can not be conveniently removed to the county poor-house.

Until they do so, duty of overseers.

§ 58. Where a woman shall be pregnant of a child likely to be born a bastard, or to become chargeable to a town, or where a bastard shall be born chargeable, or likely to become chargeable to a town, the overseers of the poor of the town where such bastard shall be born, or be likely to be born, whether the mother have a legal settlement therein or not, shall provide for the support of such child and the sustenance of its mother, during her confinement and recovery therefrom, in the same manner as they are authorised by law to provide for and support the poor of their town.

Mother and bastard to be supported by overseers, whether chargeable to town or not.

## TITLE 6.

Money received on account of bastards, how to be applied: how to be accounted for.

§ 59. Where any money shall be paid to any overseers, pursuant to the order of any two justices, by any putative father, or by the mother of any bastard, the said overseers may expend the same directly in the support of such child, and the sustenance of its mother as aforesaid, without paying the same into the county treasury. They shall annually account, on oath, to the board of town auditors, at the same time that other town officers are required to account, for expenditures of all monies so received by them, and shall pay over the balance in their hands, to their successors in office, at the same time, and under the like penalties, as are provided by law, in respect to the poor monies in their hands.

When received on account of bastard chargeable to county, how to be disposed of.

§ 60. All monies which shall be ordered to be paid by the putative father, or by the mother of a bastard chargeable to any county, shall be collected for the benefit of such county; and all overseers of the poor, superintendents, sheriffs, and other officers, shall, within fifteen days after the receipt of any such monies, pay the same into the county treasury. Upon neglect of any of the said officers to make such payment, they shall be liable to an action by and in the name of the county treasurer, for all monies so received and withheld, with interest from the time of the receipt, at the rate of ten dollars upon the hundred dollars; and shall forfeit a sum equal to that so withheld, to be sued for and recovered by and in the name of the county treasurer.

Settlement of bastards, how determined.

§ 61. Whenever any dispute shall arise concerning the legal settlement of the mother of a bastard, or of a child born or likely to be born a bastard, in any town, the same shall be determined by the board of county superintendents of the poor, upon a hearing of the parties interested, in the same manner as they are authorised to determine the settlement of any poor person.

Proceedings for that purpose.

§ 62. Where a bastard shall be born, or be likely to be born in one town, when the legal settlement of the mother is in another town of the same county, which is required by law to support its own poor, the overseers of the poor of the town where such bastard shall be born, or be likely to be born, shall give the like notice to the overseers of the town where the mother's settlement may be, as is required in the case of a person becoming a pauper, under the like circumstances; and the same proceedings shall be had in all respects, to determine the liability of such town, as in the case of paupers.

It.

§ 63. The overseers of the town to which the mother of such bastard belongs, may, before the confinement of such mother, or at any time after the expiration of two months after her delivery, if her situation will permit it, take and support such mother and her child.

It.

§ 64. If they omit to do so, and fail to obtain the determination of the county superintendents in their favor on the question of settlement, the town to which the mother belongs, shall be liable to pay all

the expenses of the support of such bastard, and of its mother during her confinement and recovery therefrom; which expenses, after being allowed by the county superintendents, shall be assessed, together with the lawful interest on the monies expended, on the town to which such mother belongs, and shall be collected in the same manner as provided for poor persons supported under the same circumstances; and the monies so collected, shall be paid to the county treasurer, for the benefit, and to be credited to the town which incurred the said expenses.

§ 65. In those cases where any town is required to support a bastard and its mother, whether the mother have a settlement in such town or not, and no monies shall be received from the putative father, or from the mother, to defray the expense of such support, the overseers of the poor shall apply to a justice of the peace, and obtain an order for the support of such bastard, and the sustenance of its mother, during her confinement and recovery therefrom, and the sum to be allowed therefor, in the same manner as is required in the case of paupers; and the monies paid, or contracted to be paid, by the overseer, pursuant to such order, shall be paid by the county treasurer, in the same manner as for paupers, and be charged to the town to whose officers such payment shall be made.

Order of justice to fix sum to be expended for bastards, &c. in certain cases.

§ 66. If there be a county poor-house, or other place provided for the reception of the poor, in any county where the towns are required to support their own poor, the overseers of the poor of a town where a bastard shall be born, or shall be likely to be born, may, with the approbation of the county superintendents, or any two of them, and when the situation of the mother will allow it, remove the mother of such bastard, with her child, to such poor-house, or other place, in the same manner as paupers may be removed; the expense of which shall be defrayed in the like manner, and such mother and her child shall be considered as poor of the town so liable for their support, and the expense shall in like manner be estimated and paid.

When bastard and mother to be removed to county poor-house;

how supported there.

§ 67. Any superintendents of county poor, and any overseer of the poor of any town, whose duty it shall be to provide for the support of any bastard and the sustenance of its mother, who shall neglect to perform such duty, shall be deemed guilty of a misdemeanor; and shall, on conviction, be liable to a fine not exceeding two hundred and fifty dollars, or to imprisonment not exceeding one year, or to both.

Penalty on superintendents and overseers for neglect.

§ 68. The commissioners of the alms-house and bridewell of the city of New-York, or any two of them, may make such compromise and arrangements with the putative fathers of bastard children in the said city, relative to the support of such children, as they shall deem

Compromise with putative fathers in New-York.

**TITLE 7.** equitable and just, and thereupon may discharge such putative fathers from all liability for the support of such bastards.<sup>49</sup>

Penalty on constables neglecting to deliver over bonus received by them.

§ 69. Every constable or other officer, to whom any bond of the putative father of a bastard, or of a child likely to be born a bastard, taken out of the county where the warrant was issued, shall be delivered as herein before directed, who shall neglect or refuse to deliver the same to the justice who issued such warrant, within fifteen days after the receipt of the same, shall forfeit the sum of twenty-five dollars, to be sued for and recovered by and in the name of any overseers of the poor, or county superintendents, at whose instance the said warrant was issued.<sup>50</sup>

Justice endorsing warrant under this Title, not liable.

§ 70. No justice of the peace shall be liable to any information, indictment, action of trespass, or other action, by reason of his having endorsed any warrant issued for the apprehension of the putative father of a bastard, or of a child likely to be born a bastard, although it should afterwards appear that such warrant was illegally or improperly issued.<sup>50</sup>

Proceedings in case of death, &c. of justice issuing warrant.

§ 71. If any justice who shall have issued any warrant for the apprehension of the father of a bastard, or of a child likely to be born a bastard, shall have died, vacated his office, or be absent on the return of such warrant, the constable who may apprehend such father, shall carry him before some other justice of the same town, who shall have the same authority to proceed therein, as the justice who issued such warrant.

## TITLE VII.

OF THE IMPORTATION INTO THIS STATE OF PERSONS HELD IN SLAVERY, OF THEIR EXPORTATION, OF THEIR SERVICES, AND PROHIBITING THEIR SALE.

- Sec. 1. Persons held as slaves not to be brought into this state.  
 2. Last section not to discharge fugitives from other states.  
 3. Emigrants from other states may bring servants with them.  
 4. Duration of service of persons so brought, since a certain time.  
 5. Term of service of those so brought after this Title becomes a law.  
 6. Travellers not remaining more than nine months, may bring and carry out servants.  
 7. Persons residing part of a year in this state, may do the same.  
 8. Penalty for selling any person as a slave under any circumstances.  
 9. Persons so sold, discharged from all obligations of service.  
 10. Persons imported since certain time, not to be transferred for any time.  
 11. Contracts for service by slaves, since certain time, void.  
 12. Penalty for sending out of the state, slaves or servants.  
 13. Last section not to apply to slaves or servants pardoned by governor.  
 14. Inhabitants may take servants on a journey; duty on their return.  
 15. Persons of color escaping into this state in a vessel, how returned.  
 16. Every person born in this state, or now or hereafter brought into it, free, &c.

Persons held in slavery not to be brought into this state

§ 1. No person held as a slave shall be imported, introduced or brought into this state, on any pretence whatever, except in the case

hereinafter specified. Every such person shall be free. Every person held as a slave who hath been introduced or brought in this state contrary to the laws in force at the time, shall be free.<sup>51</sup>

TITLE 7.

§ 2. The preceding section shall not be deemed to discharge from service any person held in slavery in any state of the United States, under the laws thereof, who shall escape into this state.

Fugitives from other states.

§ 3. Any inhabitant of any other state emigrating into this state, with intent to reside permanently therein, may bring with him any person lawfully held in slavery, and belonging to such inhabitant under the laws of the state from which he shall remove, who was born since the fourth day of July one thousand seven hundred and ninety-nine, and before the fourth day of July one thousand eight hundred and twenty-seven, upon the condition that such emigrant shall file with the clerk of the city or town in which he shall come to reside, within six months after his removal into this state, his own affidavit in writing, containing the name and addition of such emigrant, the county and state from which he removed, and the time of his arrival in this state, together with the name, age and sex of the person so held in slavery. The said affidavit shall be recorded by the clerk with whom it shall be filed, in a book to be provided for the purpose, which record and a certified copy thereof, shall be good evidence of the facts therein contained.<sup>52</sup>

Emigrants from other states allowed to bring servants on certain conditions.

§ 4. Every such person held in slavery aforesaid, and born after the fourth day of July, one thousand seven hundred and ninety-nine, who hath been brought into this state according to the provisions of the preceding section, since the thirty-first day of March, one thousand eight hundred and seventeen, shall be free, but shall remain the servant of him to whom such person belonged, and of his executors and administrators, in the same manner as if such person had been bound as an apprentice according to law, and shall continue in such service, if a male, until the age of twenty-eight years, and if a female, until the age of twenty-five years.<sup>53</sup>

Duration of service of certain persons so brought.

§ 5. The term of service of such persons who shall so be brought into this state, after this Title becomes a law, shall be only, until they attain the age of twenty-one years respectively.

Of persons hereafter brought

§ 6. Any person not being an inhabitant of this state, who shall be travelling to or from, or passing through this state, may bring with him any person lawfully held by him in slavery, and may take such person with him from this state; but the person so held in slavery shall not reside or continue in this state more than nine months, and if such residence be continued beyond that time, such person shall be free.<sup>54</sup>

Travellers with servants

(51) Laws of 1817, p. 126, § 9. (52) Ib. p. 140, § 16. (53) Ib. p. 141, § 17. (54) Ib. § 15.

## TITLE 7.

Persons removing part of time in this state.

§ 7. Any person who, or whose family shall reside part of the year in this state, and part of the year in any other state, may remove and bring with him or them, from time to time, any person lawfully held by him in slavery, into this state, and may carry such person with him or them, out of this state.<sup>55</sup>

Penalty for selling any person as a slave.

§ 8. No person shall under any colour or pretext whatever, sell any other person as a slave; and whoever shall offend against this provision shall be deemed guilty of a misdemeanor, and on conviction, shall be subject to a fine not exceeding two thousand dollars, or to imprisonment in the county jail, not exceeding three years, or to imprisonment in a state prison not exceeding fourteen years.<sup>56</sup>

Persons and discharged from all service.

§ 9. If the person so sold as a slave, be at the time held in slavery, or in any manner bound to service, to the individual selling him, or with whose consent or knowledge he shall be sold, he shall thereupon, by the fact of such sale, become emancipated and discharged from all obligations of service.<sup>56</sup>

Certain persons imported, not to be transferred.

§ 10. No person who hath been imported or brought into this state as a slave since the eighth day of April, in the year one thousand eight hundred and one, shall be transferred for any term of time; and every person transferred shall be free from all obligations of service to the individual transferring him, or with whose knowledge he shall be transferred.<sup>56</sup>

Certain contracts for service, void.

§ 11. Every indenture, bond or contract, for personal service, made since the thirtieth day of March, one thousand eight hundred and ten, or which shall hereafter be made or entered into, by any person, who has been held or possessed as a slave without this state, shall be utterly void; and all such contracts made by any person who has been held as a slave within this state, shall also be void.<sup>57</sup>

Penalty for sending slaves or servants out of the state.

§ 12. No person shall send, export or carry out of this state, any person who hath been held as a slave, or as a servant for a term of years, in consequence of his having been born of a person held in slavery, except as herein provided; and whoever shall offend against this provision, or shall attempt to send, export or carry out of this state, any such slave or such servant, or be aiding and consenting to such exportation or attempt, except as aforesaid, shall be deemed guilty of a misdemeanor, and every person so exported, or attempted to be exported, shall be free, and discharged from all obligations of service to the individual so exporting him, or with whose knowledge or privity he shall be so exported.<sup>57</sup>

Law not to be qualified.

§ 13. The provisions in the preceding section, shall not be applicable to any slave or servant who shall be pardoned by the executive on condition of leaving this state.<sup>56</sup>

(55) Laws of 1819, p. 173, § 4. (56) Laws of 1817, p. 137, § 10. (57) Laws of 1804 p. 33, § 2; of 1817, p. 133, § 11. (58) Laws of 1819, p. 172, § 1.

§ 14. Any inhabitant of this state, going a journey to any other part of the United States, may carry with him any person by him lawfully held to service as aforesaid. Such inhabitant, on his own return to this state, shall bring back with him every person so carried away by him; and in default thereof he shall be deemed guilty of a misdemeanor, unless it shall appear that within one month after such return, he filed with the clerk of the city or town in which he resides, a certificate signed by a judge of the county courts of the county, or by the mayor or recorder of the city, stating that it hath satisfactorily appeared to such officer, by the oath of such inhabitant or otherwise, that the person held to service and not brought back as aforesaid, could not be brought back as herein required, by reason of some unavoidable accident.<sup>59</sup>

**TITLE 8.**  
Certain inhabitants may take servants with them.

Proof to be made on their return.

§ 15. Whenever any person of colour, owing service or labor in any other state of the United States, shall secrete himself on board of a vessel lying in any port or harbor of such state, and shall be brought into this state in such vessel, the captain or commander thereof, or his agent, may seize such person of colour, and take him before the mayor or recorder of the city of New-York. The officer before whom such person shall be brought, shall inquire into the circumstances, and if it appear, upon proper testimony, that such person of colour owes service or labor in any other state, and that he did secrete himself on board of such vessel, without the knowledge or consent of the captain or commander thereof, and that by so doing, he subjected such captain to any penalty, such officer shall furnish a certificate thereof, to such captain or commander, which shall be a sufficient warrant to him, to carry or send such person of colour, to the port or place from which he was so brought as aforesaid.<sup>60</sup>

Persons of colour involuntarily brought into this state, may be returned; proceedings.

§ 16. Every person born within this state, whether white or coloured, is **FREE**; every person who shall hereafter be born within this state, shall be **FREE**; and every person brought into this state as a slave, except as authorised by this Title, shall be **FREE**.

Persons born in this state, &c. free.

**TITLE VIII.**

**OF THE PREVENTION AND PUNISHMENT OF IMMORALITY AND DISORDERLY PRACTICES.**

- ART. 1.—Of jugglers and the exhibition of shows, &c.
- ART. 2.—Of disorderly practices on public occasions and holidays, and in taverns, vessels and canal boats.
- ART. 3.—Of betting and gaming.
- ART. 4.—Of raffling and lotteries.
- ART. 5.—Of the racing of animals.
- ART. 6.—Of profane cursing and swearing.
- ART. 7.—Of the disturbance of religious meetings.

(59) Laws of 1817, p. 140, § 15. (60) *Ib.* p. 143, § 30.

TITLE 8. ART. 8.—Of the observance of Sunday.

ART. 9.—General provisions to enforce the prohibitions of the three last Articles.

ARTICLE FIRST.

*Of Jugglers, and the Exhibition of Shows, &c.*

SEC. 1. Puppet-shows, &c. not to be performed or allowed; penalty.

2. Same penalty for exhibiting paintings, animals, &c. without license.

Penalty for performing puppet-shows, &c. or allowing them to be performed.

§ 1. No person shall exhibit or perform for gain or profit, any puppet-show, any wire or rope-dance, or any other idle shows, acts or feats which common showmen, mountebanks or jugglers usually practice or perform; and no owner or occupant of any house, out-house, yard, field, shed or other place, shall furnish or allow the same to be used for the accommodation of such exhibition or performance. Whoever shall offend against either of these provisions, shall forfeit twenty-five dollars for each offence, to be recovered by and in the name of the overseers of the poor of the town where the offence shall be committed.<sup>61</sup>

1b for exhibiting paintings, animals, &c. without license.

§ 2. The penalties in the preceding section shall also apply to and be recovered of any person who shall exhibit for gain or profit any painting, any animal or other natural or artificial curiosity, or any other thing not prohibited in the foregoing section, in any town, without having first obtained permission in writing for that purpose, signed by two justices of the peace of the town, in which license the nature of such exhibition shall be described, and for the granting of which no fee or reward shall be taken.<sup>61</sup>

ARTICLE SECOND.

*Of Disorderly Practices on Public Occasions and Holidays, and in Taverns, Vessels and Canal Boats.*

SEC. 3. Penalty for discharging fire-arms, &c. on certain days, without military order.

4. Gaming tables at parades, town-meetings, elections, &c. prohibited.

5. Public officers to destroy such tables.

6. Gaming, &c. in taverns and certain vessels and packets, prohibited.

7. Penalties on tavern-keepers, &c., and how collected.

Discharge of fire-arms, &c. on certain days, prohibited.

§ 3. No person shall fire or discharge any gun, pistol, rocket, squib, cracker, or other fire-work, within a quarter of a mile of any building, on the twenty-fifth day of December, on the last day of December, on the first day of January, or on the twenty-second day of February, in any year; nor on the fourth day of July, or such other day as shall at the time be celebrated as the anniversary of American independence, without the order of some officer of the militia, while in the course of military exercises: every person offending against these provisions, shall forfeit the sum of five dollars, to be recovered by any person who will prosecute in the name of the overseers of the poor, with their consent and under their direction, for the use of the poor.<sup>62</sup>

(61) Laws of 1819, p. 240, § 1 & 2. (62) 1 R. L. p. 49.



§ 4. On the day of any militia parade or rendezvous, or of any town-meeting, or of any annual or special election, or on the day of the assembling of any inhabitants of this state to celebrate the anniversary of American independence, no person shall expose to the public, or have in his possession within half a mile of the place of such parade, rendezvous, town-meeting, election or celebration, any eatable, wheel of fortune, or other gaming table, or gaming machine or box; every person offending against this provision, shall forfeit twenty-five dollars, to be recovered by and in the name of the overseers of the poor of the town where the offence was committed, for the use of the poor.<sup>63</sup>

ART. 3.  
Gaming tables at parades, elections, &c. prohibited.

§ 5. It shall be the duty of all sheriffs and of all other executive, judicial or ministerial officers concerned in the administration of justice, to break, burn or otherwise destroy, every such table, box and machine, so exposed or possessed contrary to the provisions of the last foregoing section.<sup>63</sup>

To be destroyed.

§ 6. There shall not be allowed or suffered any cock-fighting, playing with cards or dice, or any kind of gaming by lot or chance, within any house kept as a public inn or tavern, or in any grocery, or other place where spirituous liquors shall be licensed to be sold, nor shall there be any playing with cards or dice for gain or money, or any kind of gaming by lot or chance, on board any vessel used for the transportation of passengers, or on board any packet or other boat employed in the conveyance of passengers on any canal; nor shall any billiard table or other gaming table, be kept on board such vessel or boat, or within such house or place, or in any out-house, yard or garden belonging to such house or place.<sup>64</sup>

Gaming, &c. in taverns and vessels, prohibited.

§ 7. The master of any vessel or boat, and the keeper of any inn, tavern, grocery or other place where spirituous liquors are licensed to be sold, who shall offend against either of the provisions of the last section, shall forfeit ten dollars for each offence, to be recovered by and in the name of the overseers of the poor of the town where any such offence shall be committed by the keeper of an inn, tavern, grocery or other place before mentioned, and by and in the name of the overseers of the poor of any town where the offence shall be committed by any master of a vessel or boat.

Penalties.

How collected.

### ARTICLE THIRD.

#### *Of Betting and Gaming.*

- Sec. 8. All wagers unlawful; all contracts on account of wagers, void.
9. Money and property wagered, may be recovered of stake holder or winner.
10. Two last sections not to extend to certain insurances and contracts.
11. Cheating at games, a misdemeanor.
12. Winners at any game, to forfeit five times the value won.
13. Winning or losing \$25 within twenty-four hours, a misdemeanor.
14. Persons losing at any sitting \$25, may recover it back.
15. If not sued for by losers, may be recovered by overseers of the poor.

(63) Laws of 1815, p. 70. (64) 1 R. L. 178, § 9; Laws of 1816, p. 243, § 2.

**TITLE 2.** **Sec. 16. Securities for money lost at gaming, &c. void.**

17. If such securities affect real estate, to enure to heir of grantor, &c.

18. Persons betting, playing, &c. competent witnesses against others.

19. Persons liable to suit, may be compelled to answer bills of discovery.

20. Answer not to be testimony against such persons.

21. When and how witnesses may be discharged from penalties of this Title.

All wagers  
unlawful, &c.

§ 8. All wagers, bets or stakes, made to depend upon any race, or upon any gaming by lot or chance, or upon any lot, chance, casualty, or unknown or contingent event whatever, shall be unlawful. All contracts for or on account of any money or property, or thing in action so wagered, bet or staked, shall be void.<sup>65</sup>

Property  
staked may  
be recovered.

§ 9. Any person who shall pay, deliver or deposit any money, property or thing in action, upon the event of any wager or bet herein prohibited, may sue for and recover the same of the winner or person to whom the same shall be paid or delivered, and of the stakeholder or other person in whose hands shall be deposited any such wager, bet or stake, or any part thereof, whether the same shall have been paid over by such stakeholder or not, and whether any such wager be lost or not.

Two last  
sections qua-  
lified.

§ 10. The two last sections shall not be extended so as to prohibit or in any way affect any insurances made in good faith for the security or indemnity of the party insured, and which are not otherwise prohibited by law; nor to any contract on bottomry or respondentia.

Penalty for  
cheating at  
games.

§ 11. Any person who shall, by any fraud or unlawful device or ill practice whatsoever, while playing at any game, or while bearing a share in the wagers played for, or while betting on the sides or hands of such as play, win or acquire to himself or to any other, any sum of money or other valuable thing, shall be guilty of a misdemeanor, and on conviction shall be deemed infamous.<sup>66</sup>

Winner to  
forfeit five  
times the sum  
won.

§ 12. Every person who shall, at any one time or sitting, win by playing at any game, of any one or more persons, any sum or value, shall forfeit five times the value of the money or other things so won, to be recovered by and in the name of the overseers of the poor of the town, for the use of the poor.<sup>66</sup>

Penalty for  
winning or  
losing §25.

§ 13. Every person who shall win or lose at play, or by betting at any time, the sum or value of twenty-five dollars or upwards, within the space of twenty-four hours, shall be deemed guilty of a misdemeanor, and on conviction shall be fined not less than five times the value or sum so lost or won; which, after deducting such reasonable charges of the prosecutor and witnesses as the court shall allow, shall be paid to the overseers of the poor of the town where the offence was committed, for the benefit of the poor.<sup>67</sup>

Losers of  
certain sums  
may recover  
them back.

§ 14. Every person who shall, by playing at any game, or by betting on the sides or hands of such as do play, lose at any time or sitting, the sum or value of twenty-five dollars or upwards, and shall

pay or deliver the same or any part thereof, may, within three calendar months after such payment or delivery, sue for and recover the money or value of the things so lost and paid or delivered, from the winner thereof.<sup>68</sup>

ART. 2

§ 15. In case the person losing such sum or value shall not, within the time aforesaid, in good faith and without collusion, sue for the sum or value so by him lost and paid or delivered, and prosecute such suit to effect without unreasonable delay, the overseers of the poor of the town where the offence was committed, may sue for and recover the sum or value so lost and paid, together with treble the said sum or value, from the winner thereof, for the benefit of the poor.<sup>68</sup>

When to be collected by overseers of poor.

§ 16. All things in action, judgments, mortgages, conveyances, and every other security whatsoever, given or executed, by any person, where the whole or any part of the consideration of the same shall be for any money or other valuable thing won by playing at any game whatsoever, or won by betting on the hands or sides of such as do play at any game, or where the same shall be made for the repaying any money knowingly lent or advanced for the purpose of such gaming or betting aforesaid, or lent or advanced at the time and place of such play, to any person so gaming or betting aforesaid, or to any person who, during such play, shall play or bet, shall be utterly void, except where such securities, conveyances or mortgages shall affect any real estate, when the same shall be void as to the grantee therein, so far only as herein after declared.<sup>69</sup>

Securities for money lost at gaming, void, &c.

§ 17. When any securities, mortgages or other conveyances, executed for the whole or part of any consideration specified in the preceding section, shall affect any real estate, they shall enure for the sole benefit of such person as would be entitled to the said real estate, if the grantor or person incumbering the same, had died, immediately upon the execution of such instrument, and shall be deemed to be taken and held to and for the use of the person who would be so entitled. All grants, covenants and conveyances, for preventing such real estate from coming to, or devolving upon, the person hereby intended to enjoy the same as aforesaid, or in any way incumbering or charging the same, so as to prevent such person from enjoying the same fully and entirely, shall be deemed fraudulent and void.<sup>69</sup>

Such securities upon real estate, to be for benefit of heir, &c. of grantor.

§ 18. No person, other than the parties in the cause, shall be incapacitated or excused from testifying, touching any offence committed against any of the foregoing provisions, relating to gaming, by reason of his having played, betted or staked, at any game, as herein prohibited; but the testimony of any such person shall not be used against him, in any suit or prosecution hereby authorised.<sup>70</sup>

Persons playing, &c. competent witnesses against others.

(68) 1 R. L. 153, § 2. (69) Ib. § 1. (70) Ib. § 8.

## TITLE 8.

Answers to bills of discovery may be compelled.

§ 19. Every person who shall be liable to be sued by any loser or other person, by virtue of any of the foregoing provisions relating to gaming, in this Article contained, shall be compelled to answer, on oath, any bill that may be exhibited against him, in the court of chancery, for discovering the money or other things won at play contrary to law; and may be compelled, by decree of such court, to return the same.<sup>71</sup>

Answers not testimony in certain cases.

§ 20. The answer to such bill shall not be used as testimony, in any case, against the person making such discovery.<sup>71</sup>

When witnesses may be discharged from penalties.

§ 21. Any person offending against any of the provisions contained in this Article, who shall be admitted and examined as a witness, in any court of record, to sustain any suit or prosecution herein authorised, may, by rule of the court, be discharged from all penalties by reason of such offence, if such person hath not before been convicted thereof, or of a similar offence, and if it appear to the court satisfactorily, that such person was duped or enticed into the commission of the offence, by those against whom he shall testify.<sup>72</sup>

## ARTICLE FOURTH.

*Of Raffleing and Lotteries.*

- Sec. 22. Penalty for setting up money or property to be raffled for.  
 23. Raffleing prohibited.  
 24. Contracts made and securities given on account of raffling, void.  
 25. Money paid for any interest in a raffle, may be recovered back.  
 26. Unauthorised lotteries declared unlawful, and common nuisances.  
 27. Penalty for setting up, drawing, &c. unauthorised lotteries.  
 28. Penalty for printing, publishing, &c. notices of illegal lotteries.  
 29. Penalty for selling, procuring, &c. tickets, &c. in illegal lotteries.  
 30. Penalty for offering for sale any property, dependant on drawing of any lottery.  
 31. Property so offered for sale, forfeited; how recovered and applied.  
 32. Purchasers of tickets, &c. in illegal lotteries, may recover double the sum paid.  
 33. Prizes drawn in illegal lotteries, forfeited; how collected and applied.  
 34. Offices for registering numbers of tickets in illegal lotteries, prohibited.  
 35. Selling of chances in illegal lotteries, and insurances respecting their drawing, prohibited.  
 36. Insuring tickets in any lottery, and publishing notice thereof, prohibited.  
 37. Penalty for violating either of three last sections.  
 38. Transfers of property pursuant to an illegal lottery, &c. void.  
 39. Prohibition against selling lottery tickets, without license.  
 40. By whom licenses to be granted in certain cities and counties.  
 41. Contents of licenses; to be recorded; effect thereof.  
 42. Licenses to be granted to certain persons, without requiring bond, &c.  
 43. All other venders to pay certain sums for licenses.  
 44. And to execute bonds; their penalty and condition.  
 45. Bonds, where filed; fee for license.  
 46. Bonds, when and by whom prosecuted; recoveries, to whom to be paid.  
 47. Monies received from licenses, &c. in New-York, how applied.  
 48. Application of monies received in other cities, and in Lansingburgh.  
 49. When venders to forfeit licenses, and precluded from ever receiving them.  
 50. Certain persons authorised to divide lottery tickets into shares.  
 51. Penalty for selling, &c. any shares, other than those allowed by last section.  
 52. Certain evidence not necessary in prosecutions under this Article.  
 53. Forgery of lottery tickets, &c. how punished.  
 54. Grand juries to be charged to enquire into violations of this Article.

§ 22. No person shall set up or propose any money, goods, chattels or things in action, to be raffled for, or to be distributed by lot or chance, to any person who shall have paid, or contracted to pay, any valuable consideration for the chance of obtaining such money, goods, or things in action. Any person offending against this provision, shall forfeit three times the sum of money, or value of the articles so set up, together with the sum of ten dollars, to be recovered by and in the name of the overseers of the poor of the town where the offence was committed.<sup>73</sup>

ART. 4.  
Penalty for setting up money, &c. to be raffled for.

§ 23. No person shall raffle for any sum of money, goods or things in action, or become interested in the distribution of any money, goods or things in action, by lot or chance. Whoever offends against this provision, shall forfeit ten dollars, to be recovered as directed in the preceding section.<sup>73</sup>

Raffling prohibited.

§ 24. All contracts, agreements and securities given, made or executed, for or on account of any raffle, or distribution of money, goods or things in action, for the payment of any money, or other valuable thing, in consideration of a chance in such raffle or distribution, or for the delivery of any money, goods or things in action, so raffled for, or agreed to be distributed as aforesaid, shall be utterly void.<sup>73</sup>

Contracts, &c. on account of raffling, void.

§ 25. Any person who shall have paid any money, or valuable thing, for a chance or interest in any such raffle or distribution, as is prohibited by the preceding sections, may sue for and recover the same of the person to whom such payment or delivery was made.<sup>73</sup>

Money paid for chances, &c. may be recovered back.

§ 26. Every lottery, game, or device of chance, in the nature of a lottery, by whatever name it may be called, other than such as have been authorised by law, shall be deemed unlawful, and a common and public nuisance.<sup>74</sup>

Lotteries unlawful, &c.

§ 27. No person, unauthorised by special laws for that purpose, shall, within this state, open, set on foot, carry on, promote, or draw, publicly or privately, any lottery, game, or device of chance of any nature or kind whatsoever, or by whatever name it may be called, for the purpose of exposing, setting to sale, or disposing of any houses, lands, tenements, or real estate, or any money, goods, or things in action. Whoever offends against this provision, shall be deemed guilty of a misdemeanor; and on conviction, shall be subject to a fine equal to the amount of the whole sum or value for which such lottery, game or device, was made; and if such amount cannot be ascertained, then to a fine of two thousand five hundred dollars, or to imprisonment not exceeding two years, or to both, in the discretion of the court.<sup>75</sup>

Penalty for setting up, drawing, &c. unauthorised lotteries.

§ 28. No person shall, by printing, writing, or in any other way, publish an account of any such illegal lottery, game or device, stating

Penalty for printing, publishing, &c. notices of illegal lotteries.

(73) 1 R. L. 222, § 7. (74) Laws of 1819, p. 258, § 1. (75) Ib. p. 269, § 2 & 3.

when or where the same is to be drawn, or the prizes therein, or any of them, or the price of a ticket or share therein, or where any ticket may be obtained therein, or in any way aiding or assisting in the same. Whoever offends against this provision, shall be deemed guilty of a misdemeanor; and on conviction, be subject to a fine not exceeding one hundred and fifty dollars, or to imprisonment not exceeding three calendar months.<sup>76</sup>

Penalty for selling, procuring, &c. tickets, &c. in lottery.

§ 29. No person within this state, shall vend, sell or barter, furnish, supply, procure, or cause to be furnished or procured, or offer to vend, sell, barter, furnish, supply, procure, or cause to be furnished or procured, to or for any person or persons, any ticket, or part or share of a ticket, or any paper or instrument purporting to be a ticket or part of a ticket, or to be a share or interest in any ticket, or any certificate of any share or interest in any ticket, or in any paper purporting to be a ticket, of any such lottery, device or game of chance, not expressly authorised by law; nor shall any person be aiding, abetting, or assisting in the commission of either of the said offences. Whoever shall offend against either of these provisions, shall be deemed guilty of a misdemeanor; and on conviction, shall be liable to a fine not exceeding five hundred dollars, or to imprisonment not exceeding one year, or to both, in the discretion of the court.<sup>77</sup>

Penalty for offering for sale any property, dependent on drawing of any lottery.

§ 30. No person, unauthorised by special law for that purpose now existing, shall offer for sale, distribution, or disposition in any way, any real estate, or any money, goods, articles, or things in action, or any interest therein, to be determined by lot or chance, that shall be dependant upon the drawing of any authorised or unauthorised lottery within or out of this state; nor shall any person sell, furnish or procure, or cause to be sold, furnished or procured, in any manner whatsoever, any chance, share or portion, or any interest of any kind whatsoever, in any property so illegally offered for sale, distribution or disposition as aforesaid, or any ticket or other evidence of any chance or interest in such property, to be determined by any drawing as aforesaid, or any instrument purporting to be such ticket or evidence. Whoever offends against either of these provisions, shall be deemed guilty of a misdemeanor; and on conviction, shall be liable to a fine not exceeding five hundred dollars, or to imprisonment not exceeding one year.<sup>77</sup>

Property so offered for sale, forfeited: how recovered and applied.

§ 31. All property so offered for sale, distribution or disposition, against the provisions of law, shall be forfeited to the people of this state, as well before as after the determination of the chance on which the same was dependent; and it shall be the duty of the respective district attorneys, to demand, sue for and recover, in behalf of this state, all property so forfeited, and to maintain the proper actions for the same after demand made, and to pay the proceeds of the sale of

such property, and any monies that may be collected in any such suit, into the county treasury, for the benefit of the poor.<sup>78</sup> **ART. 4.**

§ 32. Any person who shall purchase any share, interest, ticket, certificate of any share or interest, or part of a ticket, or any paper or instrument purporting to be a ticket or share or interest in any ticket, or purporting to be a certificate of any share or interest in any ticket, or in any portion of any illegal lottery, may sue for and recover double the sum of money, and double the value of any goods or things in action, which he may have paid or delivered in consideration of such purchase, with double costs of suit.<sup>79</sup>

Purchasers of tickets, &c. to recover double the sum paid.

§ 33. Any prize that shall be drawn in any lottery forbidden by law, shall be forfeited to the use of the poor; and it shall be the duty of the overseers of the poor of the town where the person or persons drawing such prize, or any of them, shall reside, to sue for the same, in their names; and they shall recover the same, in an action for money had and received, founded upon this statute.<sup>79</sup>

Prizes in illegal lotteries, forfeited.

§ 34. No person shall open, set up, exercise, or keep by himself, or by any other person or persons, any office or other place for registering the numbers of any ticket in any lottery not authorised by the laws of this state; nor shall any person, by printing, writing or otherwise, publish the setting up, opening, or using of any such office or other place.<sup>80</sup>

Registering offices prohibited.

§ 35. No person shall sell the chance or chances of any ticket in any lottery not authorised by the laws of this state; nor shall any person insure for or against the drawing of any such lottery.<sup>81</sup>

Selling chances, insuring, &c.

§ 36. No person shall insure, or receive any consideration for insuring, for or against the drawing of any ticket or tickets in any lottery whatever, whether authorised by law or not; nor shall any person receive any money, or goods or thing in action, in consideration of any agreement to repay any sum or sums, or to deliver the same or any other goods or thing in action, if any ticket or tickets in any lottery whatever shall prove fortunate or unfortunate, or shall be drawn or not drawn on any particular day, or in any particular order, or otherwise howsoever; nor shall any person promise or agree to pay any sum of money, or to deliver any goods or thing in action, or to do or forbear to do any thing for the benefit of any other person or persons, with or without consideration, upon any event or contingency dependent on the drawing of any ticket or tickets, or the number or numbers of any tickets, in any lottery whatever; nor shall any person publish any notice or proposal, for any of the purposes aforesaid.<sup>81</sup>

Prohibition against insuring tickets in any lottery, and against publishing notice thereof, &c.

§ 37. Whoever shall offend against any of the provisions contained in the three preceding sections, shall be deemed guilty of a misde-

Penalty for violating three last sections.

(78) Laws of 1827, p. 329, § 6 & 12. (79) 2 R. L. p. 199, § 4. (80) Laws of 1819, p. 200, § 6. (81) *Ib.* § 7.

**TITLE 2.** meanor; and on conviction, shall be liable to a fine not exceeding one thousand dollars, or to imprisonment not exceeding one year.<sup>82</sup>

Certain transfers of property, void.

§ 38. Every grant, bargain, sale, conveyance, or transfer of any real estate, or of any goods, chattels, things in action, or any personal property, which shall hereafter be made in pursuance of any lottery not authorised by the laws of this state, or for the purpose of aiding and assisting in such lottery, game or other device, to be determined by lot or chance, are hereby declared void and of no effect.<sup>83</sup>

Selling lottery tickets without license, prohibited.

§ 39. No person within this state shall directly or indirectly sell, vend, barter, furnish, procure for the purpose of sale, or cause to be sold, vended, bartered, furnished or procured, any ticket or share or interest in any ticket, of any lottery or other device or game of chance, unless thereto duly licensed in the manner herein after prescribed; and any person offending in the premises, shall be deemed guilty of a misdemeanor, and shall be subject to a fine not exceeding one hundred dollars for every ticket or share, or interest in any ticket so vended, sold, bartered, furnished or procured, or to imprisonment not exceeding one year.<sup>84</sup>

Licenses, by whom to be granted.

§ 40. Licenses may be granted to any person applying for the same to carry on the business of vending lottery tickets, for the term of one year from the date thereof, in the cities of New-York, Albany, Hudson, Troy and Schenectady, by the mayors of the said cities respectively, and in the several counties in this state, except the city and county of New-York, by the judges of the county courts thereof respectively, or the majority of them; but no licenses shall be granted for the cities of Albany, Hudson, Troy and Schenectady, by any other persons than the mayors of the said cities respectively.

Licenses to be recorded;

§ 41. The said licenses shall be entered of record by the clerks of the counties wherein the same are granted; and such record, or a transcript thereof, duly certified by the clerk of the county, under his official seal, shall be evidence in all courts and places whatsoever. Such licenses shall specify the house, store or office where the business of vending tickets shall be carried on, and shall not authorise the selling, bartering or furnishing of any tickets of any lottery in any other place than that so designated, except some other place shall be substituted by the officers having authority to grant such license.

contents;

effect.

Licenses to certain persons, without bond, &c.

§ 42. A license shall be granted by the said mayors and judges respectively, whenever applied for, to the managers or persons who have purchased the lotteries heretofore authorised by this state, and to the duly authorised agent or agents of the institutions or corporations for whose benefit the said lotteries were granted, who shall be appointed such agent for the purpose of managing any such lottery, and also to any persons who shall be employed by the said managers or

(82) Laws of 1819, p. 260, § 7. (83) *Ib.* p. 259, § 4. (84) This and the remaining sections of this Title, except when otherwise noted, are taken from the act of 1837, p. 377.



purchasers aforesaid, or by the agents aforesaid, to vend tickets for them and in their behalf, upon such persons producing and filing with the said mayors of cities respectively, or with the clerk of the county in which application shall be made, a certificate subscribed by the said managers or purchasers, or by the agents so appointed, specifying that such applicant has been employed by them to vend tickets in their behalf.

ART. 4  


§ 43. Before the granting of such license to any other person than the said managers, purchasers, agents or persons employed by them, it shall be the duty of the person desiring a license to vend such tickets in the city of New-York, to pay to the mayor of that city the sum of two hundred and fifty dollars; and for a license to vend such tickets in the city of Albany, to pay to the mayor of that city the sum of one hundred and twenty-five dollars; and for a license to vend such tickets in the city of Hudson, to pay to the mayor of that city the sum of seventy-five dollars; and for a license to vend such tickets in the city of Troy, to pay to the mayor of that city the sum of one hundred dollars; and for a license in the city of Schenectady, to pay to the mayor of that city the sum of fifty dollars; and to the treasurers of the counties where applications shall be made to the judges of the county courts, such sums as the said judges, or a majority of them, shall require, not less than twenty dollars, nor more than one hundred dollars: and no licenses shall be granted by the judges of the county courts, until the receipt of the county treasurer for the said sum so required to be paid, shall be produced and filed with the clerk of the county.

Certain sums to be paid by all other vendors.

§ 44. No license shall be granted to any other persons than those before excepted, until the person applying for the same shall enter into a bond to the people of this state, with two sufficient sureties, to be approved by the said mayors respectively in their several cities, or by the judges of the county courts in their several counties, or a majority of such judges, which approbation shall be endorsed on the said bond; and which bond, when executed in the city of New-York, shall be in the penal sum of five thousand dollars, and in any other city or county, in the penal sum of two thousand dollars, with a condition therein that the person receiving such license shall not, during the continuance thereof, directly or indirectly, sell, vend, barter, furnish, supply, procure, or cause to be procured, furnished or supplied, within this state, to any person, any ticket or share, or interest in any ticket, of any lottery, or of any other game or device of chance, other than such as have been authorised by the legislature of this state, or any ticket or share, or interest in any ticket of any private lottery, device or game of chance, dependent upon the drawing of any lottery; and that the person receiving such license, will, during the continuance thereof, conform himself, in all things, to the laws of this state relative to lotteries and the sale of tickets.

And bonds to be executed by them;

penalty and conditions.

TITLE 2  
 Bonds upon  
 State  
 See for license

§ 45. Such bond, on being duly executed, shall be delivered to the persons or persons to whom application for such license shall be made, before any such license shall be granted, and shall be by them filed in the office of the clerks of their respective counties, and for granting such license, such mayor or judges shall be entitled to receive the sum of fifty cents.

Prosecution  
 of bonds

§ 46. It shall be the duty of the several district attorneys of this state, whenever any condition of any such bond has been violated, to prosecute such bond by action of debt, and to assign the breaches of such condition: and on any breach of such condition being found by verdict or confessed, it shall be the duty of the court wherein such suit is prosecuted, to render judgment for the penalty of such bond, with the costs of suit, and to cause execution thereon to be duly had.

Payment over  
 of recoveries

The amount collected on such judgment, upon any bond executed in the city of New-York, over and above the costs, shall be paid to the mayor of the said city, and upon any bonds executed in any other county, to the county treasurer thereof.

Application  
 of monies re-  
 ceived in  
 New-York.

§ 47. The monies received by the mayor of the city of New-York, either upon the granting of licenses, or from recoveries upon bonds as aforesaid, shall be paid over from time to time as they shall be received, the one half thereof to the managers of the institution for the education of the deaf and dumb, and the other half to the common council of the said city, for the use of the public schools therein.

Application  
 of monies re-  
 ceived in oth-  
 er cities.

§ 48. The monies received as aforesaid by the mayors of other cities of this state, shall be by them paid over as received, to the treasurers of their respective counties; and the monies so received by the said treasurers, as well as the monies received by them on granting licenses, and from recoveries on bonds, shall be preserved as a fund for the support of the poor of the counties respectively in which the same shall be received, subject to the disposition of the board of supervisors of each county, excepting that the monies so received and collected in the city of Hudson, shall be paid over for the benefit of the Hudson Lancaster school; and the monies so collected and received from granting licenses to venders in the first four wards of the city of Troy, shall be paid over to the trustees of the first school district in that city, to be by them applied to the support of a high school on the monitorial plan, and to be accounted for as other school monies that shall come into their hands; and the monies so collected from the venders of lottery tickets in the village of Lansingburgh, shall be paid over by the treasurer of the county of Rensselaer to the trustees of the Lansingburgh monitorial school, to be applied to the use of the said school.<sup>65</sup>

Hudson.

Troy.

Lansing-  
 burgh.

Licenses,  
 when forfeit-  
 ed, &c.

§ 49. If any licensed vender of lottery tickets shall be convicted of any of the offences specified in this Article, his license shall, by such

conviction become forfeited, and be held absolutely null and void ; and such person shall forever thereafter be debarred from receiving any license to vend lottery tickets in this state ; but no such forfeiture of any license shall prevent the prosecution of the bond given by such vender to obtain such license, nor shall such conviction and forfeiture bar any suit or recovery upon any such bond.

ART. 4

§ 50. The agents of the institutions or corporations for whose benefit lotteries have been granted by any law of this state, duly appointed by them, to conduct such lotteries, and the persons who have purchased such lotteries from said institutions or corporations, may divide any tickets in any such lotteries into shares, and may issue certificates of such shares, which shall be subscribed by the agents of the said institutions or corporations, or by the said purchasers, or by their agents, for that purpose appointed. Before issuing such certificates, a complete list thereof, exhibiting the register and combination numbers thereof, duly certified to be true and correct, by the persons intending to issue the same, shall be filed in the office of the secretary of state. The said list, or a duly certified copy thereof, shall be evidence in all courts.

Certain lottery tickets may be divided into shares

List thereof to be made and filed.

§ 51. No person shall within this state, sell any share or part of a ticket in any lottery whatsoever, other than the certificates of shares issued in conformity to the preceding section ; nor shall any person give any writing or certificate that the bearer, or any person, shall be entitled to any share or part of any prize which may be drawn in any lottery whatever, except the certificates issued according to the preceding section ; whoever shall offend against these provisions, or either of them, shall be deemed guilty of a misdemeanor, and on conviction shall be liable to a fine not exceeding one hundred dollars, and to imprisonment not exceeding three calendar months, or to both, in the discretion of the court.

Penalty for selling, &c. any other shares of tickets.

§ 52. It shall not be necessary in the trial of any suit or prosecution under the provisions of this Article, to prove the existence of any lottery in which any ticket, share or part of a ticket purports to have been issued, or the actual signing of any such ticket, or share, or of any pretended ticket or share, of any pretended lottery ; nor that any ticket, share or interest, was signed or issued by the authority of any manager, or of any person assuming to have authority as manager ; but in all cases, proof of the sale, furnishing, bartering or procuring of any ticket, share or interest therein, or of any instrument, purporting to be a ticket, or part or share of any ticket, shall be conclusive evidence that such ticket, share or interest was signed and issued according to the purport thereof.

Evidence in prosecutions under this Article.

§ 53. If any person shall falsely make, alter, forge or counterfeit, or cause or procure to be falsely made, altered, forged or counterfeited, or willingly act or assist in the false making, altering, forging or

Forgery of lottery tickets, &c.

**TITLE 8.** counterfeiting any ticket of any lottery, or other game or device of chance, or any share or interest, or any certificate of any share or interest in any ticket of any lottery, or other game or device of chance, with intent to defraud any person or body corporate whatsoever, or shall utter or publish as true, or shall sell or exchange, or offer for sale or exchange, any false, altered, forged or counterfeited ticket of any lottery, or other game or device of chance, or of any share or interest, or of any certificate of any share or interest in any ticket of any lottery, with intention to defraud any person or body politic or corporate whatsoever, knowing the same to be false, altered, forged or counterfeited, then any such person being thereof convicted, shall be subject to imprisonment as prescribed by law.<sup>86</sup>

Grand juries to be charged respecting this Article.

§ 54. It shall be the duty of the presiding judge of every court of oyer and terminer, and of every court of general sessions of the peace, specially to charge every grand jury to inquire into all violations of the laws against lotteries, and against the unlawful selling of tickets in lotteries.

#### ARTICLE FIFTH.

##### *Of the Racing of Animals.*

Sec. 55. Racing, &c. of horses, &c. prohibited; penalty.

56. Duty of public officers to prevent races and bind over offenders.

57. Penalty for contributing or collecting purse, &c. to be raced for.

58. Penalty on owners of horses, &c. and on persons betting.

59 & 60. All racing in New-Utrecht prohibited; penalty.

Racing, &c. of horses, prohibited;

§ 55. All running, trotting or pacing of horses, or any other animals, for any bet or stakes, in money, goods, or other valuable thing, or for any reward to be given to the owner or rider of any animal which shall excel in speed, excepting such as are by special laws for that purpose expressly allowed, shall be deemed racing within the meaning of this Article, and are hereby declared to be common and public nuisances and misdemeanors; and all parties concerned therein, either as authors, betters, stakers, stakeholders, judges to determine the speed of the animals, riders, contrivers or abettors thereof, shall be deemed guilty of a misdemeanor, and shall be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding one year.<sup>87</sup>

penalty.

Public officers to prevent races and bind over offenders.

§ 56. It shall be the duty of all officers concerned in the administration of justice, to attend at the place where they shall know or be informed that any race is about to be run contrary to the provisions of law, and there give notice of the illegality thereof, and endeavor to prevent such race, by dispersing the persons collected for the purpose of attending the same, and by all other ways and means in their power. Upon their own view of any persons offending against the provi-

(86) Act concerning Revised Statutes, of Dec. 10, 1828, § 13; see chap. 1, 4th Part R. S. Title 3, § 33. (87) 1 R. L. 222, § 1 & 6.

sions of the preceding section, as well as upon the testimony of others, such judges and justices shall issue warrants for the immediate apprehension of the persons so offending, to the end that they may be compelled to enter into recognizances, with sufficient sureties, for their good behavior, and for their appearance at some proper court, to answer for the said offences.

ART. 6.

§ 57. Every person who shall contribute or collect, or solicit any other person to contribute or collect, any money, goods, or things in action, for the purpose of making up a purse, plate or other valuable thing, to be raced for by any animal contrary to law, or to be given to the owner or rider of any animal so racing contrary to law, shall forfeit twenty-five dollars, to be sued for and recovered by and in the name of the overseers of the poor of the town where the offence may be committed.<sup>88</sup>

Penalty for contributing or collecting purse, &c. to be raced for.

§ 58. The owner, in the whole or in part, of any animal that shall be used or employed, by his permission or privity, in racing, contrary to law, shall forfeit the value of the animal so employed. Every person concerned in laying any bet or wager upon the event of any illegal race, or in contributing to the stakes to be awarded upon any such event, shall forfeit the amount of the bet or wager so made, or of the sum or thing so contributed. The said forfeitures may be sued for and recovered by the overseers of the poor of the town where the offence may be committed.<sup>88</sup>

Penalty on owners of horses, &c. and on persons betting.

§ 59. All racing and running of animals for the trial of speed within the town of New-Utrecht, in the county of Kings, whether the same be for any bet, wager, or stakes, or not, shall be deemed a misdemeanor, and the parties concerned therein shall, on conviction, be liable to fine and imprisonment, as declared in the preceding fifty-fifth section.<sup>89</sup>

Racing in New-Utrecht prohibited.

§ 60. The owner, in whole or in part, of any animal that shall be used or employed, by his permission or privity, in racing, in the town of New-Utrecht, contrary to the provisions of the preceding section, shall forfeit the value of the animal so employed, to be sued for, recovered and applied as directed in the preceding fifty-eighth section.<sup>89</sup>

Penalty.

#### ARTICLE SIXTH.

##### *Of Profane Cursing and Swearing.*

Sec. 61 & 62. Penalty for profane swearing; when summary conviction to be made.  
63. Proceedings if penalty be not paid or secured.

§ 61. Every person who shall profanely curse or swear shall forfeit one dollar for every offence; if the offence be committed in the presence and hearing of any justice of the peace, mayor, recorder or alderman of any city, while holding a court, a conviction of the of-

Penalty for profane swearing; summary conviction.

(88) 1 R. L. 222, § 2, 3 & 4. (89) Laws of 1820, p. 79.

under shall be immediately made by such magistrate, without any other proof whatsoever.<sup>27</sup>

§ 62. And if, at any other time, the offence be committed, in the presence and hearing of such justice, mayor, recorder or alderman, under such circumstances, as in the opinion of the magistrate, to amount to a gross violation of public decency, such magistrate may, in his discretion, convict the offender without other proof.<sup>28</sup>

§ 63. If the offender do not forthwith pay the penalties incurred, with the costs, or give security for their payment within six days, he shall be committed by warrant to the common jail of the county for every offence, or for any number of offences whereof he was convicted, at one and the same time, for not less than one day, nor more than three days, there to be confined in a room separate from all other prisoners.<sup>29</sup>

#### ARTICLE SEVENTH.

##### *Of the Disturbance of Religious Meetings.*

- Sec: 64. Prohibition of certain acts, disturbing meetings for religious worship  
 65. Penalty: proceedings to collect: summary conviction.  
 66. Duty of peace officers to apprehend offenders against this Article.  
 67. Judicial officers may order offenders into custody.  
 68. Proceedings on conviction, if penalty be not paid or secured.

§ 64. No person shall wilfully disturb, interrupt or disquiet any assemblage of people met for religious worship, by profane discourse, by rude and indecent behaviour, or by making a noise either within the place of worship, or so near it as to disturb the order and solemnity of the meeting: nor shall any person within two miles of the place where any religious society shall be actually assembled for religious worship, expose to sale or gift, any ardent or distilled liquors, or keep open any hackster-shop in any other place, inn, store or grocery, than such as shall have been duly licensed, and in which such person shall have usually resided or carried on business: nor shall any person, within the distance aforesaid, exhibit any shows or plays, unless the same shall have been duly licensed by the proper authority: nor shall any person within the distance aforesaid, promote, aid, or be engaged in any racing of any animals, or in any gaming of any description: nor shall any person obstruct the free passage of any highway to any place of public worship, within the distance aforesaid.<sup>30</sup>

§ 65. Whoever shall violate either of the provisions of the foregoing section, may be convicted summarily before any justice of the peace of the county, or any mayor, recorder, alderman or other magistrate of any city, where the offence shall be committed, and on such conviction, shall forfeit a sum not exceeding twenty-five dollars, for the benefit of the poor of the county.<sup>31</sup>

(29) 2 R. L. 186, § 6, 7 & 8. (30) *Id.* p. 184, § 4: and Laws of 1834, p. 374.

§ 66. It shall be the duty of all sheriffs, and their deputies, coroners, marshals, constables, and other peace officers, who may be present at the meeting of any assembly for religious worship, which shall be interrupted or disturbed in the manner herein prohibited, to apprehend the offender, and take him before some justice of the peace, or other magistrate authorised to convict as aforesaid, to be proceeded against according to law.<sup>92</sup>

ART. P.  
 Offenders to be apprehended by peace officers present.

§ 67. All judges, mayors, recorders, aldermen, and justices of the peace, within their respective jurisdictions, upon their own view of any person offending against the provisions of this Article, may order the offender into the custody of any officer in the preceding section named, or of any official member of the church or society so assembled and disturbed, for safe keeping until he shall be let to bail, or a trial for such offence be had.<sup>92</sup>

May be ordered into custody by judicial officers.

§ 68. If any person convicted of any of the offences herein prohibited, shall not immediately pay the penalty incurred, with the costs of the conviction, or give security to the satisfaction of the officer before whom the conviction shall be had, for the payment of the said penalty and costs within twenty days thereafter, he shall be committed by warrant to the common jail of the county, until the same be paid, or for such term, not exceeding thirty days, as shall be specified in the warrant.<sup>92</sup>

Proceedings if penalty be not paid or secured.

ARTICLE EIGHTH.

*Of the Observance of Sunday.*

Sec. 69. Service of certain process, &c. on Sunday, prohibited and void, &c.

70. Certain sports and acts, on Sunday, prohibited; penalty.

71. Goods not to be sold on Sunday; to be forfeited; proceedings.

72. Tavern-keepers, grocers, &c. not to sell liquor on Sunday.

§ 69. No writ, process, warrant, order, judgment, decree, or other proceeding of any court or officer of justice, shall be served or executed upon the first day of the week, called Sunday, except in cases of breach of the peace, or apprehended breach of the peace, or for the apprehension of persons charged with crimes and misdemeanors, or the violation of any of the provisions of this and the preceding Article, and except where such service shall be specially authorised by law. The service of any such process or proceeding, in all other cases, shall be utterly void, and shall subject the party offending to damages, at the suit of any person aggrieved.<sup>93</sup>

Certain process not to be served on Sundays.

Service void, &c.

§ 70. There shall be no shooting, hunting, fishing, sporting, playing, horse-racing, gaming, frequenting of tippling-houses, or any unlawful exercises or pastimes, on the first day of the week, called Sunday; nor shall any person travel on that day, unless in cases of charity or necessity, or in going to or returning from some church or place of worship within the distance of twenty miles, or in going for

Certain sports on Sunday, travelling, laboring, &c. prohibited.

(92) 2 R. L. 194, § 4; and Laws of 1824, p. 374. (93) 2 R. L. 195, § 5; 198, § 1, 2, & 3.

**TITLE 8.** medical aid or for medicines, and returning, or in visiting the sick and returning, or in carrying the mail of the United States, or in going express by order of some public officer, or in removing his family or household furniture when such removal was commenced on some other day; nor shall there be any servile laboring or working on that day, excepting works of necessity and charity, unless done by some person who uniformly keeps the last day of the week, called Saturday, as holy time, and does not labor or work on that day, and whose labor shall not disturb other persons in their observance of the first day of the week as holy time. Every person being of the age of fourteen years, offending against the provisions of this section, shall forfeit one dollar for each offence.<sup>94</sup>

Exceptions.

Goods not to be sold on Sunday;

may be seized and forfeited.

Liquor not to be sold on Sunday.

Exception.

§ 71. No person shall expose to sale any wares, merchandize, fruit, herbs, goods or chattels, on Sunday, except meats, milk and fish, which may be sold at any time before nine of the clock in the morning; and the articles so exposed for sale shall be forfeited to the use of the poor, and may be seized by virtue of a warrant for that purpose, which any justice of the peace of the county, or mayor, recorder or alderman of the city, is hereby authorised to issue, upon a conviction of the offender. When seized, they shall be sold on one day's notice being given, and the proceeds shall be paid to the overseers of the poor of the town or city.<sup>94</sup>

§ 72. No keeper of an inn or tavern, or of any ale-house, or porter-house, or grocery, nor any other person authorised to retail strong or spirituous liquors, shall on Sunday, sell or dispose of any ale, porter, strong or spirituous liquors, excepting to lodgers in such inns or taverns, or to persons actually travelling on that day in the cases allowed by law. Every person offending against this provision, and being thereof duly convicted, shall forfeit the sum of two dollars and fifty cents.<sup>94</sup>

#### ARTICLE NINTH.

#### *General Provisions to enforce the Prohibitions of the three last Articles.*

Sec. 73. Proceedings to collect penalties imposed by three last Articles.

74. Such prosecutions to be commenced within twenty days.

75. Execution to collect penalties; its contents.

76. Certificate of conviction to be filed with county clerk.

77. Amount of fees allowed; by whom to be paid.

Proceedings to collect penalties imposed by three last Articles.

§ 73. Whenever complaint shall be made to any justice of the peace, mayor, recorder or alderman, of a violation of either of the provisions contained in the three last Articles, relative to profane swearing, the disturbance of religious meetings, or the observance of Sunday, or when any of such violations shall happen in the presence of such officer, he shall cause the offender to be brought before him,

(94) 2 R. L. 195, § 5; 1b. 198, § 1, 2 & 3.



and shall proceed summarily to inquire into the facts; and if the person charged be found guilty, a record of his conviction shall be made and signed by such officer, before issuing any process to enforce the same; which conviction shall be final, and shall not be re-examined upon the merits in any court.<sup>95</sup>

TITLE 9.

§ 74. No prosecution shall be maintained for any of the violations specified in the preceding section, unless the same be instituted by the actual issuing of process to apprehend the offender, or by his actual appearance to answer the complaint, within twenty days next after the offence committed.<sup>96</sup>

Time limited for prosecuting.

§ 75. Upon a conviction being had for any of the offences in the three last Articles specified, where no other special provision is made for the collection of the penalties incurred, the magistrate before whom the same is made, shall issue an execution to any constable of the county, commanding him to levy the said penalties and the costs of the conviction, by distress and sale of the goods and chattels of the offender, and in case sufficient goods and chattels can not be found, then to commit such offender to such common jail of the county, for such time as shall be specified in such execution, not less than one day nor more than three days.<sup>96</sup>

Execution to collect penalties.

§ 76. Within thirty days after any such conviction shall be had, the magistrate making the same, shall cause to be filed in the office of the clerk of the county, a certificate of such conviction, briefly stating the offence charged, the conviction and judgment thereon, and if any fine has been collected, the amount thereof, and to whom paid.<sup>97</sup>

Certificate of conviction when and where to be filed.

§ 77. In all prosecutions for any of the offences specified in the three last Articles, the like fees shall be allowed and taken as in civil suits before justices of the peace, which shall in no case exceed five dollars, and be paid by the party offending, over and above the penalties incurred; but in case of the imprisonment of the offender, no charges or fees shall be allowed.<sup>96</sup>

Fees of justices and officers.

## TITLE IX.

### OF EXCISE, AND THE REGULATION OF TAVERNS AND GROCERIES.

- Sec. 1. Who to be commissioners of excise in the several towns.
2. When and where to meet.
3. Book of minutes to be kept; how verified, and where filed.
4. Power to grant licenses, and to fix sum to be paid therefor.
5. Licenses, how signed; how long in force; fee therefor.
6. In what cases only, licenses to sell liquor to be drank, &c. to be granted.
7. Bond with surety to be executed by tavern-keepers; its condition.
8. Penalty on tavern-keepers for not being provided with certain articles.
9. Tavern-keepers to put and keep up a sign; penalty for neglect.
10. Penalty for putting up sign, without license as tavern-keeper.

(95) 2 R. L. 196, § 9 & 10. (96) *Ib.* 197, § 11, 12, and other sections. (97) Act concerning Revised Statutes, December 10, 1828.

- § 11. Intemperance not to exact certain persons above certain sum; penalty.
12. Licenses to grocers to specify that no liquor is to be sold to be drunk in house, &c.
13. Bond with surety to be executed by grocers: its condition.
14. Fee allowed to commissioner for drawing bond.
15. Penalty for selling less than five gallons of liquor, without license.
16. Penalty for selling liquor to be drunk in house, &c. without license.
17. Penalty for selling liquor to minors, apprentices or servants.
18. Penalty for receiving from minors, &c. property, &c. in payment or pledge for liquor.
19. Penalties to be exacted for by owners of piers.
20. Bonds taken under this Title, when and where to be filed.
21. Who to prosecute for breach thereof: application of recovery.
22. Contempts for penalties and judgments on bonds, to be sent to general sessions.
23. Proceedings: court may revoke license: when it shall be revoked.
24. Person whose license is revoked, incapable of receiving another for three years.
25. Offences against provisions of this Title, misdemeanors.
26. Methem, cider, and certain wines, excepted from this Title.
27. Construction of this Title as to New-York, and cities and villages.
28. Proceeding provisions not to extend to vessels or boats.
29. Penalty for selling liquor under five gallons, on board vessels or boats.
30. Penalties for selling in board vessels, &c. how collected and applied.
31. Excise moneys in certain counties, to be paid to county treasurer.

Commissioners of excise in the several towns.

§ 1. The supervisor of every town, and the justices of the peace resident therein, shall be commissioners of excise for their town; three of them, consisting of the supervisor and any two justices, shall be competent to execute the powers herein vested in the board. If the office of supervisor be vacant, then any three of the justices shall form a board. If there be not two justices in the town, then any two justices of a neighboring town may be associated by the supervisor with him, and the three shall form a board.<sup>98</sup>

When and where to meet.

§ 2. The commissioners of excise shall meet in their respective towns, on the first Monday of May in each year, and on such other days as the supervisor shall appoint, at such place as shall be designated by him; or in case his office be vacant, on such other days, and at such places, as the justices of the peace of the town may appoint.<sup>99</sup>

To keep book of minutes.

§ 3. They shall keep a book of minutes of all their proceedings, in which shall be entered every resolution passed by them, granting a license to any person, with the sum required to be paid by such person; which minutes shall be verified by their signatures, and shall be filed with the town clerk within five days.<sup>100</sup>

To grant licenses to keepers of inns and taverns.

§ 4. They shall have power to grant licenses to keepers of inns and taverns, being residents of their town, to sell strong and spirituous liquors and wines, to be drunk in their houses respectively; and to grocers being such residents, a license to sell such liquors and wines in quantities less than five gallons, but not to be drunk in their shops, houses, over-houses, yards or gardens; and to determine the sum to be paid for a license, by each person applying; which sum shall not be less than five dollars, nor more than thirty dollars.<sup>101</sup>

(98) R. L. 178, § 1. (99) D. § 2. (100) D. § 2.

§ 5. The said licenses shall be signed by the commissioners granting the same, for which they shall collectively be entitled to receive the sum of seventy-five cents ; they shall not be issued until the said allowance, and the duty fixed by the board, shall have been paid ; when issued, they shall be in force, unless revoked, until the day after the first Monday in May in the succeeding year.<sup>1</sup>

**TITLE 9.**  
Licenses how signed : fee thereon ; how long in force.

§ 6. Licenses shall not be granted to any person to sell strong and spirituous liquors and wines, to be drank in the house of the seller, unless such person proposes to keep an inn or tavern, nor unless the commissioners are satisfied that the applicant is of good moral character, that he is of sufficient ability to keep a tavern, and has the necessary accommodations to entertain travellers, and that a tavern is absolutely necessary for the actual accommodation of travellers, at the place where such applicant resides, or proposes to keep the same ; all which shall be expressly stated in every such license.<sup>2</sup>

When licenses to sell liquors to be drank to be granted.

§ 7. Nor shall such license be granted, until the applicant shall have executed and delivered to the supervisor, or in case of his absence, one of the justices of the town, a bond to the people of this state, in the penal sum of one hundred and twenty-five dollars, with a sufficient surety, to be approved by the board of commissioners, with a condition that such applicant, during the time he shall keep an inn or tavern, will not suffer it to be disorderly, or suffer any cock-fighting, gaming, or playing with cards or dice, or keep any billiard table or other gaming table, within the tavern so by him kept, or in any out-house, yard or garden, belonging thereto.<sup>3</sup>

Bonds by tavern-keepers.

§ 8. Every keeper of an inn or tavern, shall keep in his house at least two spare beds for his guests, with good and sufficient sheeting and covering for such beds ; and shall provide and keep good and sufficient stabling, and provender of hay in the winter, and hay or pasturage in the summer, and grain for four horses or other cattle more than his own stock, for the accommodation of travellers. For every neglect or default in having either of the articles herein required, such keeper shall forfeit five dollars, to be recovered by the overseers of the poor, for the use of the poor.<sup>4</sup>

Tavern-keepers to provide certain articles.

Penalty.

§ 9. Every innholder or tavern-keeper, shall, within thirty days after obtaining his license, put up a proper sign, on or adjacent to the front of his house, with his name thereon, indicating in some way that he keeps a tavern ; and shall keep up such sign during the time he keeps a tavern. For every month's neglect to keep up such sign, he shall forfeit one dollar and twenty-five cents.<sup>5</sup>

To keep a sign.

§ 10. No person who has not at the time a license to sell strong or spirituous liquors, or wines, to be drank in his house, shall erect or put up any sign indicating that he keeps a tavern ; and whoever

Sign not to be put up by persons not licensed.

(1) 1 R. L. 176, § 1 & 4. (2) Ib. § 3. (3) Ib. § 6. (4) Ib. § 9. (5) Ib. § 15.

**TITLE 9.** **offends against this provision, shall forfeit one dollar and twenty-five cents for every day such sign shall be so kept up.<sup>6</sup>**

**Certain persons not to be trusted above a certain sum by innkeepers**

**§ 11. No innholder or tavern-keeper, shall trust any persons other than those who may be lodgers in his house, or travellers not residing in the same city or town, for any sort of strong or spirituous liquors, or tavern expenses, above the sum of one dollar and twenty-five cents; nor shall he be capable of recovering the same by any suit. All securities given for such debts shall be void; and the innkeeper taking such securities, with intent to evade this provision, shall forfeit double the sum intended to be secured thereby.<sup>7</sup>**

**penalty.**

**Special clause to be inserted in licenses to grocers, &c.**

**§ 12. In all licenses that may be granted to grocers, or other persons applying for the same, (excepting tavern-keepers,) to sell strong or spirituous liquors, or wines, in quantities less than five gallons, there shall be inserted an express declaration that such license shall not be deemed to authorise such sale of any liquor, or wine, to be drank in the house or shop of the person receiving such license, or in any out-house, yard, or garden appertaining thereto, or connected therewith.**

**Bond to be given by grocers.**

**§ 13. Such licenses, to grocers, shall not be granted, unless the commissioners are satisfied that the applicant is of good moral character, nor until such applicant shall have executed a bond to the people of this state, in the penal sum of one hundred and twenty-five dollars, with such surety as shall be approved by the commissioners, conditioned that, during the term for which his license shall be granted, he will not suffer his grocery to become disorderly; that he will not sell, or suffer to be sold, any strong or spirituous liquors, or wines, to be drank in his shop, or house, or in any out-house, yard, or garden appertaining thereto; and that he will not suffer any such liquor, sold by virtue of such license, to be drank in his shop, or house, or in any out-house, yard, or garden belonging thereto.**

**Its condition.**

**Fee for drawing bond.**

**§ 14. Whenever any bond required by this Title, shall be drawn by any commissioner of excise, he shall not demand or receive therefor any greater fee than twenty-five cents.**

**Penalty for selling under 5 gallons without license.**

**§ 15. Whoever shall sell any strong or spirituous liquors, or any wines in any quantity less than five gallons at a time, without having a license therefor granted as herein directed, shall forfeit twenty-five dollars.<sup>8</sup>**

**Penalty for selling liquor, to be drank in house, &c. without license.**

**§ 16. Whoever shall sell any strong or spirituous liquors or wines to be drank in his house or shop, or in any out-house, yard or garden appertaining thereto, or shall suffer any such liquors or wines sold by him or under his direction or authority, to be drank in his house or shop, or in any out-house, yard or garden appertaining there-**

(6) 1 R. L. 176, § 15. (7) Ib. § 12, 13 & 14. (8) Ib. p. 178, § 7.

to, without having obtained a license therefor as a tavern-keeper, shall forfeit twenty-five dollars.<sup>9</sup> TITLE 9.

§ 17. No tavern-keeper, grocer, or other person licensed to sell any strong or spirituous liquors or wines, shall sell any such liquors or wines to any apprentice or servant, knowing or having reason to believe him to be such, without the consent of his master; nor to any minor under the age of fourteen years, without the consent of his father or mother or guardian. Whoever shall offend against either of these provisions, shall forfeit five dollars, to be recovered by the master of such apprentice or servant, or by the parent or guardian of such minor.<sup>10</sup> Penalty for selling liquor to minors, apprentices or servants.

§ 18. No tavern-keeper, grocer, or other person shall directly or indirectly take or receive from any such apprentice or servant or minor, any clothing, or any goods, money or things in action, in payment for any strong or spirituous liquors or wines, sold to such apprentice, servant or minor, or in pawn or pledge to secure any such payment. Whoever shall offend against this provision, shall forfeit three times the sum or value of the money or articles so received, to the master of such apprentice or servant, or to the parent or guardian of such minor, as the case may be, to be recovered by them, together with the money or articles so received.<sup>11</sup> Not to receive property, &c. in payment or pledge, for liquor sold to minors, &c.

§ 19. The penalties imposed by this Title, shall be sued for and recovered by the overseers of the poor of the town where the offence is committed, except in those cases where other special provisions are made.<sup>12</sup> By whom penalties to be collected.

§ 20. Every bond taken pursuant to the provisions of this Title, within five days after the execution of the same, shall be filed in the office of the clerk of the town, city or village, in which the license shall be granted. Bonds when and where to be filed.

§ 21. Whenever a breach of the condition of such bond shall happen, it shall be the duty of the supervisor of the town, mayor of the city, or trustees of the village in which such bond was executed, to prosecute the same and recover the penalty thereof for the use of the poor.<sup>12</sup> Prosecutions on breach of bonds.

§ 22. Whenever any conviction or judgment shall be obtained against any person licensed to sell strong or spirituous liquors or wines, for any violation of the provisions of this Title, either in a suit for a penalty, or in a suit upon the bond given by such person, it shall be the duty of the justice or court before whom the same shall be had, to transmit to the next court of general sessions of the peace of the county, a statement of such conviction or judgment, and of the offence for which it was obtained. Certain convictions and judgments to be sent to general sessions.

(9) 1 R. L. 178, § 7. (10) *Ib.* § 11. (11) *Ib.* § 12. (12) *Ib.* § 16; *Laws of 1820*, p. 20, § 1.

TITLE 9  
 Licenses to be revoked

§ 23. The said court shall cause the person against whom such conviction or judgment was obtained, to be notified to appear on such day as the court shall appoint, to show cause why any license that may have been granted to him to sell strong or spirituous liquors or wines, should not be revoked. At the day appointed, and at such other days as the court shall appoint, it shall proceed to inquire into the circumstances, and may in its discretion revoke and annul any such license. If such conviction or judgment be for a second or other offence after the first, the court shall revoke and annul such license.

Consequences of revoking license.

§ 24. Upon any order being entered for the revocation of any such license, the said license shall be annulled and altogether void; and the person whose license shall be so revoked, shall be incapable of receiving any license to sell strong or spirituous liquors or wines, for the space of three years from the time of such revocation.

Violations of this title, and: mean- ing.

§ 25. All offences against the provisions of this Title shall be deemed misdemeanors, punishable by fine and imprisonment.<sup>13</sup>

Execution of order, &c.

§ 26. No person shall be subject to be prosecuted by virtue of the provisions of this Title, for selling metheglin, currant wine, cherry wine, or cider.<sup>14</sup>

Application of this title to New-York and other cities, and to villages &c.

§ 27. The preceding provisions of this Title shall not extend to the city of New-York; nor shall they impair the powers of any corporation of any other city, town or village, or of the trustees of any village, specially authorised by law to grant licenses to sell strong or spirituous liquors, but such powers shall be exercised in the manner herein prescribed by such corporation, or the officers authorised by it, instead of the board of commissioners of excise herein created.

Not to extend to vessels and boats.

§ 28. The preceding provisions of this Title shall not extend to any person selling strong or spirituous liquor or any wines, on board any boat or vessel navigating any river, lake, canal, or other stream within this state.

Penalty for selling liquor under 5 gallons, on board vessels or boats.

§ 29. Whenever any boat or vessel of any description, navigating any river, lake, canal or other navigable water within this state, shall remain at any city, town, village or other place, for a longer time than one hour, no strong or spirituous liquor or wine shall be sold in any quantity less than five gallons, on board of such boat or vessel while so remaining beyond such hour, to any person or persons whatever, under the penalty of twenty-five dollars for each offence.

How collected and applied.

§ 30. Every penalty incurred by selling strong or spirituous liquor on board a steam-boat or canal boat, shall be sued for and recovered by and in the name of the overseers of the poor of the town or city in which the offence was committed, and shall be appropriated to the use of the poor.

(13) 1 R. L. 176, § 17. (14) Ib. § 7.

§ 31. In those counties in which the distinction between town and county poor is or shall be abolished, all monies received for excise duty in any city or village, except the city of New-York, shall be paid into the county treasury for the support of the poor; and the same remedies may be had for the collection thereof, by the county treasurer against the trustees, or other persons receiving the same, as in the case of commissioners of excise of a town.

TITLE 30.

Excise monies in certain counties to be paid to county treasurer.

## TITLE X.

### OF THE NAVIGATION OF RIVERS AND LAKES, AND THE OBSTRUCTION OF CERTAIN WATERS.

- SEC. 1. Steam-boats meeting, to pass to the starboard or right of each other.
2. Passengers not to be put in small boats, until they are disengaged, &c.
3. Engine of steam-boat to be stopped at certain times.
4. Passengers may be landed or brought to boat, by line hauled by hand.
5. Engine to stop during landing, &c. of passengers, except in certain cases.
6. Oars to be kept in small boats; signals when to be given.
7. Steam-boats going the same direction, how far to keep from each other.
8. Lights to be carried by steam-boats navigating in the night time.
9. Penalties for violations of 8 last sections; how collected and applied.
10. When penalties incurred by masters, may be recovered of owners of boats.
11. Attaching line to machinery of boat, &c. in certain cases, how punished.
12. Vessels in Hudson river, &c. to show lights in night time; penalty.
13. The first 14 sections of this Title, to be posted in every steam-boat.
14. Definition of the term "master," as used in this Title.
15. Certain nets and other obstructions in channel of Hudson river, forbidden.
16. Obstructions below New-York forbidden; penalty for violating this and last section
17. Qualification of last section, as to certain waters.
18. Penalties for obstructions in Hudson river, out of its channel.

§ 1. Whenever any steam-boats shall meet each other on the waters of the Hudson river, or on any other waters within the jurisdiction of this state, each boat so meeting shall go towards that side of the river or lake which is to the starboard or right side of such boat, so as to enable the boats so meeting, to pass each other with safety.<sup>15</sup>

Steam-boats to pass on the starboard side of each other.

§ 2. Whenever any passenger is about to be landed from any steam-boat navigating the waters of this state, and such steam-boat shall not be so near the shore, that the passenger can be landed immediately from the steam-boat on the shore, no passenger shall be put or suffered to go into any small boat, for the purpose of being landed, until such small boat shall be completely afloat, and wholly disengaged from the steam-boat, except by a painter.<sup>15</sup>

Small boats to be disengaged before passengers put on board them.

§ 3. While any passenger is getting into a small boat, from a steam-boat, for the purpose of being landed, the engine of the steam-boat shall be stopped, and when any passenger is taken on board of any small boat belonging to any steam-boat, the engine of such steam-boat shall be stopped while such small boat is at the shore, and until such passenger shall have left the small boat and be on board of the steam-boat, except as herein after specified.<sup>16</sup>

When engine to be stopped.

(15) Laws of 1826, p. 252, § 1 & 2. (16) Laws of 1828, p. 204, § 2, 3, 4 & 5.

**TITLE 10.** § 4. Passengers may be landed in a small boat by means of a line from the steam-boat, and boats from the shore containing passengers may be drawn to a steam-boat, by means of a line hauled in by hand; but in no case shall the line be attached to, or hauled in, by the machinery of the steam-boat.<sup>17</sup>

When line may be used to land passengers, &c.

During landing, &c. of passengers, engine to stop

§ 5. During the time of landing and receiving any passenger, the engine of the steam-boat shall not be put in motion, except,

1. To give sufficient force to carry the small boat to the shore; or,
2. To keep the steam-boat in proper direction, and to prevent her from drifting or being driven on shore.<sup>17</sup>

Oars in small boats.

§ 6. In every small boat, while landing or receiving any passenger from or on board of any steam-boat, there shall be kept a good and sufficient pair of oars suitable for such small boat; and in landing or receiving any passenger in the night time, there shall be a signal given from the small boat at the shore, by means of a horn or trumpet, to enable those having charge on board the steam-boat, to determine when the small boat, having landed or received her passengers, is ready to leave the shore.<sup>17</sup>

Signals.

Navigation of steam-boats going the same direction.

§ 7. Whenever any steam-boat shall be going in the same direction with another steam-boat ahead of it, it shall not be lawful to navigate the first mentioned boat so as to approach, or pass the other boat so being ahead, within the distance of twenty yards; and it shall not be lawful so to navigate the steam-boat so being ahead, as unnecessarily to bring it within twenty yards of the steam-boat following it.<sup>18</sup>

To carry lights in night time.

§ 8. Whenever any steam-boat shall be navigating in the night time, the master of such boat shall cause her to carry and show two good and sufficient lights, one of which shall be exposed near her bows, and the other near her stern, and the last shall be at least twenty feet above her deck.<sup>18</sup>

Penalty for violating last 8 sections:

how collected:

where paid:

certain deductions.

§ 9. Every master of any steam-boat, who shall violate either of the preceding eight sections, shall for every such offence, forfeit the sum of two hundred and fifty dollars, to be sued for in the name of the people, by the district attorney of any county bordering on the waters on which the offence shall have been committed, to whom notice shall first be given of the commission of such offence. The penalty, when recovered, shall be paid into the county treasury of the county for which such district attorney shall have been appointed, for the use of the poor of the county, except that the court in which the recovery shall be had, may order such portion thereof, not exceeding twenty-five dollars, as it shall deem just, to be paid to the district attorney by whom the suit shall have been prosecuted, as a compensation for his

(17) Laws of 1828, p. 204, § 2, 3, 4 & 5. (18) Laws of 1826, p. 253, § 2 & 4.



services and expenses, beyond the taxable costs to be recovered by him.<sup>19</sup> TITLE 10.

§ 10. The owners of every steam-boat shall be deemed responsible for the good conduct of the masters employed by them; and if any penalty incurred by such master cannot be collected of him by due course of law, the same may be recovered of the owners of the boat in whose employ he was at the time such offence was committed, jointly and severally, in the same manner as if they were sureties of such master.<sup>19</sup>

Owners liable for penalties incurred by masters.

§ 11. In case any line used for the purpose of landing or receiving passengers, shall be attached in any way to the machinery of any steam-boat, or the small boat shall be hauled in by means of such machinery, the person having the command or charge of such steam-boat, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine or imprisonment, or both, in the discretion of the court before which such conviction shall be had; but such fine shall not exceed two hundred and fifty dollars, and such imprisonment three months.<sup>20</sup>

Punishment for attaching line to machinery of boat, &c.

§ 12. Whenever any vessel navigating that part of the Hudson river which is north of the battery, at the southern extremity of New-York, or navigating lake Champlain, shall be at anchor in the night time, the master of such vessel shall cause her peak to be lowered, and shall cause a good and sufficient light to be shown in some part of her rigging, at least twenty feet above her deck, and from her taffril; under the penalty of fifty dollars, to be sued for and recovered, against the master of such vessel, by the overseers of the poor of the city or town in which the offence shall have been committed. And in case such penalty cannot be collected from the master, the owners of such vessel shall be liable therefor, as provided in the preceding tenth section.<sup>21</sup>

Vessels to show lights in night time.

Penalty.

When owners of vessels liable for.

§ 13. It shall be the duty of the master of every steam-boat navigating the waters of this state, to keep a copy of the first fourteen sections of this Title posted in a conspicuous place in such boat, for the inspection of all persons on board the same; and in case of neglect herein, every such master shall forfeit at the rate of twenty-five dollars per month, for all the time during which he shall be guilty of such neglect, to be sued for and recovered in the name of the people of this state, by the district attorney of any county bordering on the waters on which the offence shall have been committed, to whom notice shall first be given of the commission of such offence. The penalty, when recovered, shall be for the use of the poor of the county for which the district attorney, by whom the suit shall have been prosecuted, was appointed.<sup>22</sup>

First 14 sections to be posted in every steam-boat;

penalty for neglect:

how recovered and applied.

(19) Laws of 1836, p. 262, § 1, 2, 3, 4, & 5. (20) Laws of 1808, p. 206, § 7. (21) Laws of 1826, p. 254, § 5. (22) Ib. p. 255, § 8 & 12.

## TITLE 10.

Term "master" defined.

§ 14. The term "master," whenever it occurs in the foregoing sections, shall be construed to apply to every person having, for the time, the charge, control or direction of any steam-boat, or other vessel comprised within the provisions of those sections.

Prohibition against obstructions in channel of Hudson river.

§ 15. No person shall make use of any set-nets, weirs, hoop-nets, or fikes in the channel of Hudson river, at any place between the city of New-York and the state dam at Fort-Edward; nor shall any person set, drive or place, or cause to be set, driven or placed, any hedge, stake, stone, post, pole, anchor, or any other fixture, for any purpose whatever, in the said channel, at any place within the points above specified.<sup>23</sup>

Obstructions at and below New-York.

§ 16. No person shall set or place, or cause to be set or placed, during the months of March, April or May, in any year, in any of the waters of this state at or below the city of New-York, any fike-net, gill-net, hoop-net, set-net, or any other net or weir, by means of any hedge, stake, stone, post, pole, anchor, or any other fixture, to extend into the channel of said waters, or to any greater distance from the shore, in any case, than twenty rods from the ordinary low water mark. Whoever shall violate the provisions of this or of the preceding section, shall, for every offence, forfeit the sum of one hundred and fifty dollars, for the use of the poor of the county in which such offence shall be committed, to be sued for in the name of the people, by the district attorney of any county bordering on the waters on which the offence shall have been committed, to whom notice shall first be given of the commission of such offence.<sup>24</sup>

Penalty for violations of this and last section.

Last section qualified.

§ 17. The last preceding section shall not be construed to affect any special regulation heretofore made by law, and now in force, concerning the placing of nets or obstructions in the waters adjacent to Staten-Island, and to the town of New-Utrecht.<sup>25</sup>

Provisions against obstructions out of channel of Hudson river.

§ 18. No person shall make use of any fike-net, gill-net, hoop-net, set-net, or any other net or weir, nor set, drive or place any hedge, stake, stone, post, pole, anchor, or any other fixture, in any part of Hudson river, out of the channel thereof, between the city of New-York and the state dam at Fort-Edward, other than such as are permitted to be used or placed for the purpose of catching fish, in the next Title of this Chapter. Whoever shall violate either of the provisions of this section, shall, for every offence, forfeit the sum of twenty-five dollars, for the use of the poor of the city or town in which such offence shall be committed; and shall be liable to indictment for a misdemeanor, punishable on conviction, by a fine not exceeding five dollars, or by imprisonment in a county jail not exceeding thirty days, or by both such fine and imprisonment.<sup>26</sup>

(23) Laws of 1815, p. 148, § 1 & 2. (24) *Ib.* § 5 & 6; Laws of 1816, p. 183, § 1; 1830, p. 27. (25) Same references, and Laws of 1822, p. 107. (26) Laws of 1815, p. 148; 1833, p. 308, § 1.

TITLE XI.

TITLE 11.

OF FISHERIES GENERALLY, AND PARTICULARLY IN HUDSON RIVER,  
AND AT AND BELOW THE CITY OF NEW-YORK.

- Sec. 1. *Coccolus indicus* not to be thrown into streams, &c.
- 2. Penalty for violating last section.
- 3. Salmon not to be taken between certain days ; penalty.
- 4. At certain seasons, fish not to be taken in certain waters on Sunday.
- 5 & 6. Fishing with seines or nets on Sunday in any waters, prohibited ; penalty.
- 7. Drift nets not to be used in certain waters, during certain months.
- 8. Fishing at certain places prohibited except on certain days.
- 9. Penalty for violating two last sections.
- 10. Penalty for spearing pike between Fort-Miller dam and Waterford.
- 11. Nets of certain description may be used in parts of Hudson river.
- 12. Certain poles, &c. may be set in that river, out of its channel.
- 13. Penalties how applied ; by whom sued for.
- 14. Laws concerning fisheries adjacent to Staten-Island, not to be affected.
- 15. Courts of common pleas may regulate fishing in their counties.
- 16. Orders not to continue in force more than three years ; may be modified, &c.
- 17. Not to be made or altered, without application of six freeholders.
- 18. Notice of application for any order, &c. how to be given and published.
- 19. Orders to be entered in minutes of court ; to be posted and published.
- 20. Orders to take effect after such posting and publication.
- 21. Costs and expenses of application, &c. by whom to be paid.

§ 1. No person shall put, cast, or throw, into any of the waters of this state, for the purpose of taking or destroying any fish being in any of said waters, any of the berry commonly called *coccolus indicus*, whether it be mixed with any other substance or not.<sup>27</sup>

*Use of coccolus indicus prohibited.*

§ 2. Whoever shall violate either of the provisions contained in the preceding section of this Title, shall, for every offence, forfeit the sum of twenty-five dollars.<sup>27</sup>

*Penalty.*

§ 3. No person shall catch, take, or destroy, any of the fish usually called salmon, in any of the waters of this state, between the twentieth day of October, in any year, and the first day of February thereafter ; and whoever shall violate the provisions of this section, shall, for every offence, forfeit the sum of ten dollars.<sup>28</sup>

*Penalty for taking salmon at certain times.*

§ 4. Between the same periods, in any year, no person shall fish with seines, or set, or draw, or raise any sort of nets, or in any manner take fish, in any of the waters of this state, at or below the city of New-York, after the setting of the sun on Saturday of each week, until the rising of the sun on Monday following.<sup>28</sup>

*When fish not to be taken on Sunday.*

§ 5. No person shall fish with seines, or set, or draw, or raise, any sort of nets, in any of the waters within this state, between twelve o'clock at night of Saturday, in each week, and twelve o'clock at night of the following Sunday.<sup>29</sup>

*Fishing with seines, &c. on Sunday.*

§ 6. Every person who shall violate either of the provisions of the two last preceding sections, shall for every offence, forfeit the sum of twenty-five dollars, but shall not be liable to any penalty imposed in the eighth Title of this Chapter.<sup>29</sup>

*Penalty for violating two last sections.*

(27) Laws of 1822, p. 225, § 12. (28) Laws of 1816, p. 188, § 2. (29) Laws of 1815, p. 149, § 4 ; 1816, p. 188, § 2 ; 1822, p. 108, § 4.

**TITLE 11.** § 7. During the months of March, April, or May, in any year, no person shall use or employ any drift-net, in any of the waters of this state, at or below the city of New-York.<sup>30</sup>

*Drift-nets in certain waters.*

*Fishing at Saratoga or Fort-Miller falls.*

§ 8. During the same months, in any year, no person shall fish, in any manner, on Saratoga or Fort-Miller falls, except on Monday, Friday and Saturday, in each week.<sup>30</sup>

*Penalty for violating two last sections.*

§ 9. Whoever shall violate either of the provisions of the two last preceding sections, shall for every offence, forfeit the sum of twenty-five dollars.<sup>30</sup>

*Spearing pike in certain place.*

§ 10. No person shall spear any fish commonly called pike, in the waters of the Hudson river, between the Fort-Miller dam and the village of Waterford; and whoever shall violate this provision, shall forfeit, for every offence, the sum of ten dollars.<sup>31</sup>

*Certain nets may be used in parts of Hudson river.*

§ 11. Hoop-nets, fikes, or set-nets, may be used for catching fish in Hudson's river, on the flats, and along the flats and shores between the city of New-York and the state dam at Fort-Edward, provided they be constructed with buoys not exceeding four feet in length, and two feet in diameter; but such hoop-nets, fikes, or set-nets, shall not be used in the channel of said river, nor in any place that was occupied, or used, prior to the eleventh day of April, one thousand eight hundred and fifteen, for the purpose of drawing seines.<sup>32</sup>

*Poles, &c. connected therewith, may be set, &c.*

§ 12. Such poles, stakes, or timber, as may be necessary in fishing with the hoop-nets, fikes, or set-nets authorised in the preceding section, may be set in any part of Hudson's river, out of the channel thereof, between the points mentioned in the last preceding section, provided the navigation of said river be not thereby obstructed or endangered.<sup>32</sup>

*Suits for penalties.*

§ 13. All penalties imposed in the preceding sections of this Title, shall be for the use of the poor, and shall be sued for and recovered by the overseers of the poor of the city or town in which the offence shall be committed.

*This title not to apply to Staten-Island*

§ 14. Nothing contained in the preceding sections of this Title, shall be construed to affect any special provisions heretofore made by law, and now in force, concerning the fisheries in the waters adjacent to Staten-Island.

*Powers of common pleas to regulate fisheries.*

§ 15. The courts of common pleas in the several counties of this state, shall have power to regulate the fishing in any of the streams, ponds, or lakes, in their respective counties; and to make such order and rule to prevent the destruction of fish therein, as they shall deem proper; and from time to time to remove any restriction against fishing therein, heretofore imposed by law, except the restriction against

(30) Laws of 1816, p. 149, § 4 & 6. (31) Laws of 1827, p. 97. (32) Laws of 1815, p. 168, § 1 & 2.

fishings on Sunday, herein before provided. They shall also have power to prescribe such penalties for the violation of any such order or rule, not exceeding twenty-five dollars for each offence, as they shall deem proper.<sup>33</sup>

TITLE 11.  
To prescribe penalties.

§ 16. No such order or rule shall be made, at any one time, to continue in force for any longer term than three years; and every such rule or order may, from time to time, be altered, modified, or annulled by such courts, in their discretion.

Duration of orders, &c.

§ 17. No such order or rule shall be made, except upon the application of at least six freeholders of the town or towns in which such stream, pond, or lake, is situated, nor shall any such order or rule be altered, modified, or annulled, except upon the like application.

Pre-requisite to any order.

§ 18. Before the making of any such application, a notice, signed by the persons making the same, and setting forth the object of the intended application, and the time when the same is to be made, shall be posted up on the outer door of the court-house of the county in which such stream, pond, or lake is situated, at least three weeks before the making of such application, and shall be published three weeks successively in one of the newspapers printed in such county, or if there be no newspaper printed therein, then in the newspaper printed nearest to the stream, lake, or pond, mentioned in the notice. And before the court shall proceed to make, alter, modify, or annul any such order or rule, due proof shall be produced of the posting and publishing of such notice as herein required.

Notice of application for order.

§ 19. Every such order or rule, when granted, shall be entered at length by the clerk of the county, in the minutes of the court, kept by him; and a certified copy thereof shall be immediately posted by him on the outer door of the court-house of the same county, and continued for six Mondays successively, after the granting of such order or rule. Such copy shall also be published for three weeks successively in a newspaper, as provided in the last preceding section.

Orders to be entered, posted and published.

§ 20. After such order or rule shall have been duly posted and published for the period above prescribed, it shall be binding on all persons; and every person who shall violate the same, shall, for every such offence, forfeit the sum prescribed therein, for the use of the poor.

When orders to take effect.

§ 21. The costs and expenses incident to every application for any such order or rule, shall be paid by the persons who shall have signed the notice of the application.

Expenses, by whom paid.

(33) This and the remaining sections of this Title, are taken, with some variations, from Laws of 1826, p. 246, § 1, 2 & 3.

## TITLE 12.

## TITLE XII.

## OF WRECKS.

- Sec. 1. Wrecked property to be recovered by owners, &c. on paying salvage, &c.  
 2. When sheriffs, coroners and wreck-masters to take charge of wrecks; their duty.  
 3. When wreck may be sold; proceedings for that purpose.  
 4. Sale how to be made; proceeds to whom to be paid.  
 5. Upon claim within one year, order for wreck or its proceeds to be granted.  
 6. Bond to be given previous to order; its penalty and condition.  
 7. Where to be filed; when to be prosecuted.  
 8. Owner may sue for property, although claim rejected; costs to be deducted.  
 9. Person having wreck, to state claim for salvage, &c. in writing, &c.  
 10. Duties of wreck-masters.  
 11. Officers and citizens to aid them, when required.  
 12. Officers, &c. entitled to salvage and expenses; until paid, wreck may be detained.  
 13. Extent of salvage; agreements, &c. for more, void.  
 14 & 15. If salvage, &c. not settled amicably, appraisers to be appointed; proceedings.  
 16. Appraisers to be sworn; their powers; effect of their decision.  
 17. Appraisers' fees and expenses, by whom to be paid.  
 18. When wrecked property to be sold and proceeds paid into treasury.  
 19. Last section to apply to proceeds of property sold; balance to be paid into treasury.  
 20. Notice of sale of wrecked property to be published in New-York; its contents.  
 21. Officer having custody of wrecked property, to publish notice in New-York.  
 22 & 23. Contents of notice; expense of publishing how defrayed.  
 24. Penalty on officers violating provisions of this Title.  
 25. Penalty on persons having wrecked property, for not delivering to officers.  
 26. Punishment for defacing marks, &c. or destroying invoices, &c.  
 27. Officers to complain of offenders to grand jury.

Owners, &c.  
of wrecked  
property to  
recover same

§ 1. No ship, vessel, or boat, nor any goods, wares, and merchandize, that shall be cast by the sea upon the land, shall be deemed to belong to the people of this state, as wrecked property, but may be recovered by the owner, consignee, or person having the charge thereof, at the time of the happening of the disaster by which the wreck was occasioned, upon the payment of a reasonable salvage, and necessary expenses.<sup>34</sup>

Powers and  
duty of she-  
riffs, coroners  
and wreck-  
masters.

§ 2. The sheriff, coroners and wreck-masters of every county in which any wrecked property shall be found, when no owner, or other person entitled to the possession of such property, shall appear, shall severally have power, and it shall be their duty, to pursue all necessary measures for saving and securing such property; to take possession thereof, in whose hands soever the same may be, in the name of the people of this state; to cause the value thereof to be appraised by indifferent persons; and to keep the same in some safe place, to answer the claims of such persons as may thereafter appear entitled thereto.

Proceedings  
for sale of  
wreck.

§ 3. If the property so saved shall be in a perishable state, so as to render the sale thereof expedient, it shall be the duty of the officer in whose custody the same shall be, to apply to the first judge of the county, by a petition supported by an affidavit of the facts, for an order authorising such sale; and if the judge to whom such application shall be made, shall be satisfied that a sale of the property would be

(34) This Title is founded upon the act at p. 68, 1 R. L. from which it differs essentially in the details.

most beneficial to the parties interested, it shall be his duty to make the order so applied for. TITLE 12.

§ 4. If such order be made, the officer having custody of the property directed to be sold, shall sell the same at public auction; at the time and in the manner that shall be specified in the order, and the proceeds of such sale, deducting the expenses thereof, as the same shall be settled and allowed by the judge making the order, shall be paid to the treasurer of the county in which the property shall have been found. Sale; proceeds how disposed of.

§ 5. If within a year after such wrecked property shall have been found and saved, any person shall claim the same or the proceeds thereof, as owner or consignee, or as the agent of the owner or consignee, and shall establish his claim by evidence, which the first judge of the county shall deem to be satisfactory, it shall be the duty of such judge to make an order directing the officer, in whose possession such property or the proceeds thereof shall be, to deliver or pay the same to the claimant, upon the payment by him of a reasonable salvage, and all necessary expenses incurred in the preservation and keeping of such property. Order for wreck or proceeds to claimant within one year.

§ 6. No such order shall however be made, unless the claimant shall deliver to such judge a bond, with one or more sufficient sureties to be approved of by the judge, conditioned for the payment of all damages that may be recovered against such claimant or his representatives, within two years after the date of such bond, by any person establishing his title as owner of the property, or proceeds, to be delivered. The bond shall be taken in the name of the people of this state, and the penalty shall be double the value of the property or proceeds before mentioned. Bond to be given. Its condition. Its penalty.

§ 7. The bond shall be filed in the clerk's office of the county in which it shall be taken. If it shall become forfeited, it shall be the duty of the first judge of such county, upon the application, supported by due proof, of the person entitled to the damages mentioned in the condition of the bond, to make an order for the prosecution thereof, for the benefit of such person and at his risk and expense. To be filed; when prosecuted.

§ 8. The rejection by the judge, to whom it may be exhibited, of any claim for wrecked property, shall not preclude the claimant from maintaining a suit for the recovery of such property or its proceeds, against the officer in whose hands the same shall be; but if the plaintiff in any such suit shall prevail, there shall be deducted, in addition to the salvage and expenses charged on the property, from the damages to be recovered, all the costs of the defendant in making his defence. Owner may sue, although claim rejected.

§ 9. It shall be the duty of every officer to whom any order duly made, for the delivery of wrecked property, or the payment of its Claim for salvage to be in writing.

## TITLE 12.

proceeds, shall be directed, to present to the claimant exhibiting such order, a written statement of the claims for salvage and expenses on such property and proceeds. If the claimant shall refuse to allow such claims, the amount of such salvage and expenses shall be adjusted in the manner hereinafter provided, and in all cases, after the payment or tender of the payment of such salvage and expenses, as agreed to, or adjusted, the officer, in whose custody such property or proceeds shall be, shall deliver or pay the same, according to the terms of the order directed to him.

On being paid, property, &c. to be delivered.

Duties of wreck-masters.

§ 10. It shall be the duty of the wreck-masters, in the several counties, in which they shall be appointed, to give all possible aid and assistance to all vessels stranded on the coasts of their respective counties, and to the persons on board the same, and to use their utmost endeavors to save and preserve such vessels and their cargoes, and all goods and merchandize which may be cast by the sea upon the land; and in the performance of these duties they shall employ such and so many men as they may respectively think proper.

Officers and citizens to aid them.

§ 11. It shall be the duty of all magistrates, constables and citizens to aid and assist the wreck-masters, when required in the discharge of their duties.

Officers, &c. entitled to salvage, &c. until paid, wreck may be detained.

§ 12. All sheriffs, coroners and wreck masters, and all persons employed by them, and all other persons aiding and assisting in the recovery and preservation of wrecked property, shall be entitled to a reasonable allowance as salvage, for their services, and to all expenses incurred by them, in the performance of such services, out of the property saved, and the officer having the custody of such property shall detain the same, until such salvage and expenses shall be paid.

Extent of salvage, &c.

§ 13. The whole salvage that shall be claimed in any case shall not exceed one half of the value of the property or proceeds on which such salvage shall be charged, and every agreement, order or adjustment allowing a greater salvage shall be void.

Proceedings to ascertain salvage, &c. if disputed.

§ 14. If in any case, the amount of salvage and expenses on property saved, shall not be settled by the agreement of the parties, the owner or consignee of such property, or the master or supercargo having charge thereof at the time the same was wrecked, or a claimant having an order for its delivery, may apply to any one of the judges of the county court of the county in which such property shall be, for the appointment of suitable persons as appraisers, to adjust and settle the amount of such salvage and expenses.

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§ 15. It shall be the duty of the judge to whom such application shall be made, by an order under his hand and seal, to appoint three disinterested freeholders of the county, not inhabitants of the town in which the property shall have been saved, to adjust and settle such salvage and expenses.



§ 16. The persons so appointed, before they shall enter on the performance of their duties, shall be sworn to perform faithfully and impartially the duties of their trust, before any officer authorised to administer oaths. They shall have power to issue compulsory process for the attendance of witnesses, and to administer oaths to all witnesses who shall attend or be produced; and their decision, or that of any two of them under their hands, as to the amount of salvage and expenses that ought to be paid, and the sums to be paid to each person entitled to share in such salvage, or claiming such expenses, shall be final and conclusive.

TITLE 19.

Appraisers to be sworn.

Their powers

Effect of their decision.

§ 17. The fees and expenses of the appraisers shall be paid by the person upon whose application they shall have been appointed, and shall be a charge on the property saved. Each appraiser shall be entitled to two dollars for each day's necessary attendance, and to a sum not exceeding one dollar for his daily expenses.

Fees and expenses, by whom to be paid.

§ 18. If within a year after wrecked property shall have been saved, no person shall have appeared to claim the same, or if within three months after a claim shall have been preferred, the salvage and expenses on such property shall not have been paid, or a suit for the recovery of the property have been commenced, it shall be the duty of the officer in whose custody such property shall be, to sell the same at public auction, and to pay the proceeds of such sale, deducting salvage and expenses, into the treasury of this state, for the benefit of the parties interested; but in no case shall any deduction of salvage and expenses be made, unless the amount thereof shall have been settled upon due proof, by an order of the first judge of the county in which the property shall have been saved, a copy of which order and of the evidence in support thereof, shall be transmitted by the judge making it, to the comptroller.

When wrecked property to be sold;

proceeds to be paid into treasury;

deductions for salvage, &c.

§ 19. The provisions of the preceding section shall be construed to apply to the proceeds of wrecked property, so far as relates to the time and manner of settling the salvage and expenses chargeable thereon. The balance of such proceeds, after the salvage and expenses, as settled, shall have been deducted, shall be paid by the county treasurer into the treasury of this state.

Last section to apply to proceeds of property sold

§ 20. Public notice of every sale to be made of wrecked property, under the provisions of this Title, shall be published by the officer making the sale, for at least two weeks in succession in one or more of the newspapers printed in the city of New-York. Every such notice shall state the time and place of the sale, and shall contain a particular description of the property intended to be sold.

Notices of sales, when to be published.

§ 21. Every sheriff, coroner, or wreck-master, into whose possession any wrecked property shall come, shall immediately thereafter publish a notice directed to all parties interested, for at least four

Notice of wrecked property to be published.

**TITLE 12.** weeks in succession, in one or more of the newspapers printed in the city of New-York.

Contents of notice.

§ 22. Every such notice shall contain a minute description of such wrecked property, and of every bale, bag, box, cask, piece or parcel thereof, and of the marks, brands, letters and figures on each, and shall state where such wrecked property then is, and its actual condition, and the name, if known, of the vessel from which it was taken or cast on shore, and of the master and supercargo of such vessel, and the place where such vessel then is, and its actual condition.

Expense how paid.

§ 23. The expenses of publishing every notice directed to be published in this Title, shall be charged on the property or proceeds to which such notice shall relate.

Penalties on officers for violations of this Title.

§ 24. Every sheriff, coroner, wreck-master, or other officer, who shall detain in his hands any wrecked property or the proceeds thereof, after the salvage and expenses chargeable thereon shall have been agreed to or adjusted, and the amount thereof shall have been paid, or offered to be paid to him, or who shall be guilty of any fraud, embezzlement or extortion, in the discharge of his duties, or who shall, in any manner, violate the provisions of this Title, shall forfeit treble damages to the party injured, and shall be deemed guilty of a misdemeanor.

Persons having wrecked property, to deliver same, &c.

§ 25. Every person who shall take away any goods from any stranded vessel, or any goods cast by the sea upon the land, or found in any bay or creek, or who shall knowingly have in his possession any goods so taken or found, and shall not deliver the same to the sheriff, or one of the coroners or wreck-masters of the county where the same shall have been found, within forty-eight hours after the same shall have been taken by him, or have come into his possession, shall forfeit treble the value of the goods so taken or kept by him, to the owner or consignee thereof, and shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court by which he shall be tried.

penalty for neglect.

Defacing marks, &c.

Destroying invoices, &c.

§ 26. Every person who shall deface or obliterate the marks on wrecked property, or in any manner disguise the appearance thereof, with intent to prevent the owner from discovering its identity, and every person who shall destroy or suppress any invoice, bill of lading, or other document, tending to show the ownership of wrecked property, shall be deemed guilty of a misdemeanor, punishable by fine and imprisonment, the fine not to exceed two thousand dollars, the imprisonment, three years.

Offenders to be presented to grand jury.

§ 27. It shall be the duty of all judges, sheriffs, justices of the peace, coroners, constables and wreck-masters, to present all offences and offenders against the provisions of this Title, that shall come to their knowledge, within their respective counties, to the grand jury, at the next court of general sessions therein.

TITLE XIII.

TITLE 13.

OF THE LAW OF THE ROAD, AND THE REGULATION OF PUBLIC STAGES.

- Sec. 1. Persons in carriages meeting on any road, to turn to the right ; penalty.
- 2. Penalty on owners of stages, &c. employing drivers addicted to drunkenness.
- 3. Owner when to discharge driver ; penalty for neglect.
- 4. Punishment for running horses drawing any carriage.
- 5. Penalty on drivers for leaving horses without being tied, &c.
- 6. Owners of certain carriages liable for acts of drivers, negligent or otherwise.
- 7. Meaning of term "carriage," as used in this Title.
- 8. Laws of cities, &c. concerning hackney coaches, not to be affected.

§ 1. Whenever any persons travelling with any carriages, shall meet on any turnpike road or public highway in this state, the persons so meeting shall seasonably turn their carriages to the right of the centre of the road, so as to permit such carriages to pass without interference or interruption, under the penalty of five dollars for every neglect or offence, to be recovered by the party injured.<sup>35</sup>

Carriages meeting on roads to turn to the right.

§ 2. No person owning any carriage running or travelling upon any road in this state, for the conveyance of passengers, shall employ, or continue in employment, any person to drive such carriage, who is addicted to drunkenness, or to the excessive use of spirituous liquor ; and if any such owner shall violate the provisions of this section, he shall forfeit at the rate of five dollars per day, for all the time during which he shall have kept any such driver in his employment, to be sued for by the district attorney of the county in which such owner shall reside. The penalty, when recovered, shall be for the use of the poor of such county, except that the court in which the recovery shall be had, may allow a portion of said penalty, not exceeding twenty-five dollars, to be retained by such district attorney, as a compensation for his services and expenses, beyond the taxable costs.<sup>36</sup>

Drivers addicted to drunkenness, not to be employed.

penalty how collected :  
how applied.

§ 3. If any driver, whilst actually employed in driving any such carriage, shall be guilty of intoxication, to such a degree as to endanger the safety of the passengers in the carriage, it shall be the duty of the owner of such carriage, on receiving written notice of the fact, signed by any one of said passengers, and certified by him on oath, forthwith to discharge such driver from his employment ; and every such owner who shall retain or have in his service, within six months after the receipt of such notice, any driver who shall have been so intoxicated, shall forfeit at the rate of five dollars per day, for all the time during which he shall keep any such driver in his employment after receiving such notice, to be sued for and applied as directed in the last preceding section.

Drivers when to be discharged :

penalty for neglect.

§ 4. No person driving any carriage upon any turnpike road or public highway within this state, with or without passengers therein, shall run his horses, or cause or permit the same to run, upon any oc-

Running horses in any carriage, prohibited.

(35) 2 R. L. p. 283, § 41 ; ib. p. 227, § 6. (36) Laws of 1827, p. 229, § 1.

**TITLE 14.** casion or for any purpose whatever ; and every person who shall offend against the provisions of this section, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined not exceeding one hundred dollars, or imprisoned not exceeding sixty days, at the discretion of the court.<sup>37</sup>

Leaving horses without being tied, &c.

§ 5. It shall not be lawful for the driver of any carriage used for the purpose of conveying passengers for hire, to leave the horses attached thereto, while passengers remain in the same, without first making such horses fast with a sufficient halter, rope or chain, or by placing the lines in the hands of some other person, so as to prevent their running ; and if any such driver shall offend against the provisions of this section, he shall forfeit, for the use of the poor, the sum of twenty dollars, to be recovered by action to be commenced within six months. And unless the amount of such recovery be paid forthwith, an execution shall be immediately issued therefor.<sup>37</sup>

Owners of certain carriages liable for acts of drivers.

§ 6. The owners of every carriage running or travelling upon any turnpike road or public highway, for the conveyance of passengers, shall be liable, jointly and severally, to the party injured, in all cases, for all injuries and damages done by any person in the employment of such owner or owners, as a driver, while driving such carriage, to any person, or to the property of any person ; and that whether the act occasioning such injury or damage be wilful or negligent, or otherwise, in the same manner as such driver would be liable.<sup>38</sup>

Term "carriage," defined.

§ 7. The term "carriage," as used in this Title, shall be construed to include stage-coaches, waggons, carts, sleighs, sleds, and every other carriage or vehicle used for the transportation of persons and goods, or of either of them.

Hackney coaches, &c.

§ 8. Nothing contained in this Title, shall interfere with or affect any law concerning hackney coaches or carriages in any of the cities of this state, nor interfere with nor affect the laws or ordinances of any such city for the licensing or regulating such coaches or carriages.<sup>39</sup>

**TITLE XIV.**

OF THE FIRING OF WOODS.

- Sec. 1. Penalties for negligently setting fire to woods, or suffering it to extend.
- 2. When woods on fire, certain officers to order inhabitants to assist in extinguishing, &c.
- 3. Penalty for refusal or neglect to obey order.
- 4. Sums recovered as penalties, shall be applied as rewards, &c.

Punishment for negligence in firing woods, &c.

§ 1. Every person negligently setting fire to his own woods, or negligently suffering a fire kindled upon his own wood or fallow land, to extend beyond his own land, shall forfeit treble damages to the party injured thereby. Every person so offending shall also be deem-

(37) Laws of 1824, p. 347, § 2 ; of 1826, p. 254, § 6, 7 & 9. (38) Laws of 1824, p. 347, § 1. (39) Laws of 1826, p. 254, § 10.

ed guilty of a misdemeanor, and on conviction, shall be punished by fine or imprisonment, or both, at the discretion of the court; such fine not to exceed one thousand dollars, and such imprisonment not to exceed one year.<sup>40</sup>

TITLE 15.

§ 2. Whenever the woods in any town shall be on fire, it shall be the duty of the justices of the peace, the supervisor and the commissioners of highways of such town, and of each of them, to order such and so many of the inhabitants of such town liable to work on the highways, and residing in the vicinity of the place where such fire shall be, as they shall severally deem necessary, to repair to the place where such fire shall prevail, and there to assist in extinguishing the same, or in stopping its progress.

By whom inhabitants ordered to assist in extinguishing fire.

§ 3. If any person so ordered to repair to and assist, in manner aforesaid, shall refuse or neglect to comply with any such order, he shall forfeit and pay the sum of fifty dollars, and shall also be deemed guilty of a misdemeanor, and on conviction shall be punished by fine or imprisonment, or both, at the discretion of the court; such fine not to exceed one hundred dollars, and such imprisonment not to exceed sixty days.

Penalty for neglect.

§ 4. Every forfeiture recovered under the last section, shall be applied as a reward to such person or persons as the officers above mentioned, or a majority of them, shall deem best entitled thereto, for superior exertions in extinguishing or stopping the progress of such fire.

Shall be given as rewards, &c.

## TITLE XV.

### OF THE EMBEZZLEMENT OF TIMBER FLOATING.

- Sec. 1. Owners of logs, &c. drifted on shore, &c. may take them, on paying damages.
- 2 & 3. In case of dispute, damages to be determined by fence-viewers; their powers.
4. If drifted lumber not removed within 3 months, notice to be given to town clerk.
5. To be filed, and exhibited to all persons requiring to see it.
6. Lumber to be detained until damages paid; how to be ascertained.
7. If not claimed within six months, notice to town clerk, who shall sell it.
8. Fees of clerk on sale; application of proceeds.
9. Damages to be assessed before payment by clerk.
10. Punishment for defacing marks, or putting false marks on certain lumber.
11. Penalty for converting lumber in certain situations.
12. Marks on timber in certain part of Hudson river, to be recorded.
13. Consequence of neglecting to record mark.
14. Fees for recording; effect of entry or copy, as evidence.
15. Penalty for drawing to shore, &c. timber, &c. floating in certain places.
16. Persons may be appointed in Albany to take charge of floating timber.
17. Description of lumber to be filed; when and how to be sold.
18. Application of proceeds of sale; owner entitled to surplus.
19. Rejection of claim conclusive, unless suit be brought in six months.
20. If not claimed or suit not brought, proceeds to belong to city.
21. This Title not to extend to drift wood.

(40) The provisions of this Title are taken, with some variations, from 1 R. L. p. 128, § 1, 2 & 3.

## TITLE 15.

When owners of drifted logs, &c. may take them.

§ 1. Whenever any logs, timber, boards or plank in rafts or otherwise, shall have been drifted upon any island in any of the waters within this state, or upon the bank or shore of any such waters, the owner of such logs or other lumber, may take the same away, on his first paying or tendering to the owner or possessor of the land on which the same shall have been drifted, the amount of the damages which such owner or possessor shall have sustained by reason thereof, and which may accrue in the removal of such logs or other lumber.<sup>41</sup>

Damages when ascertained by fence-viewers.

§ 2. If the parties cannot agree as to the amount of such damages, either party may apply to any two of the fence-viewers of the town or city in which such lumber may be found, whose duty it shall be, after hearing the proofs and allegations of the parties, to determine the same, at the expense of the owner of the lumber, and their decision shall be conclusive.<sup>41</sup>

Powers of fence-viewers.

§ 3. The fence-viewers, or either of them, shall have power to issue process for such witnesses as may be desired by either party, and to administer oaths to all witnesses produced before them.

Notice of drifted lumber when to be given to town clerk.

§ 4. If the owner of such lumber shall not, within three months from and after the time when such lumber shall have been so drifted, take the same away, it shall be the duty of the owner or possessor of the land on which the same may have been drifted, to deliver to the clerk of such city or town, a note in writing, signed by him, describing as near as may be, such lumber, together with the quantity and mark or marks thereof, and the place where the same is lodged.<sup>42</sup>

To be filed, &c.

§ 5. It shall be the duty of the clerk, to whom any such note in writing shall be delivered, to file the same in his office, and to produce the same for the inspection of any person who shall request it.<sup>42</sup>

Lumber to be detained, &c.

§ 6. The person delivering such note in writing, may detain the lumber described therein, until the owner thereof shall appear and pay the damages, if any, which such person shall be entitled to demand; which damages shall be settled, in case of disagreement between the parties, by the fence-viewers, in the same manner as above provided.

To be sold if not claimed in 6 months.

§ 7. If no person shall, within six months after the filing of such note in writing, claim the lumber described therein, it shall be the duty of the owner or possessor of the land whereon the same shall have been drifted, to give notice thereof in writing, to the clerk of the city, or town, who shall cause such lumber to be sold by public auction, after giving at least twenty days' previous notice of such sale, by advertisement, to be posted up in at least three of the most public places in such city, or town.<sup>42</sup>

Fees on sale.

§ 8. The clerk making the sale, shall be entitled to the same fees therefor, as are allowed to officers making sales on executions issued

(41) 2 R. L. p. 236, § 3; Laws of 1825, p. 230, § 2. (42) 2 R. L. p. 236, § 4, 5, 6 & 7.

out of justices' courts. The monies arising from the sale, shall be applied, TITLE 15.

1. To the payment of such fees : and,
2. To the payment of the damages, which the owner or possessor of the land shall have sustained, by reason of such lumber, and which may accrue in the removal thereof:

3. The surplus, if any, shall be paid by the clerk of the city, or town, to the treasurer of the county, wherein such lumber shall have been found, for the use of the poor.<sup>43</sup> Proceeds how applied.

§ 9. Before the clerk shall pay out any of said monies, for the damages of the owner or possessor of the land, such damages shall be assessed by any two fence viewers of the city or town, and a specification thereof, signed by such fence-viewers, shall be filed in the office of such clerk. Damages to be assessed before payment.

§ 10. No person shall cut out, alter, or deface any mark, made upon any logs, timber, boards, or plank, or put a false mark upon any such logs, or other lumber, floating in any of the waters of this state, or lying on the banks or shores of any such waters, or at any saw-mill, or on any island where the same may have drifted; and whoever shall violate the provisions of this section, shall, for every offence, forfeit to the owner of such logs or other lumber, the sum of twenty-five dollars, and shall also be deemed guilty of a misdemeanor, and on conviction, shall be imprisoned not exceeding six months, at the discretion of the court.<sup>43</sup> Defacing and forging marks in certain lumber.

§ 11. Whoever shall convert to his own use, without the consent of the owner thereof, any logs, timber, boards, or plank, floating in any of the waters of this state, or lying on the banks or shores of any such waters, or on any island where the same may have drifted, shall, for every offence, forfeit to the owner of such logs, or other lumber, treble damages.<sup>43</sup> Converting lumber floating, &c.

§ 12. Every person who shall put any logs or timber into the waters of the Hudson river, or of its branches, to the northwest of Baker's falls, for rafting or floating down said river, or its branches, shall select some mark, different from any mark previously recorded, and put the same in a conspicuous place, upon each log, or stick of timber, so put into said river, or its branches, and shall cause his mark to be recorded by the town clerk of the town of Queensbury, whose duty it shall be to enter the same in a book, to be kept by him for that purpose, which shall be subject to the inspection of any person requiring it.<sup>43</sup> Marks to be put on timber in certain places; to be recorded in Queensbury.

§ 13. Every such person, who shall neglect to enter his mark as required in the foregoing section, shall be debarred from all the benefits arising from the due entry of such mark; and the assignee or Consequence of neglect.

**TITLE 15.** vendee of any such logs or timber, shall be subject to the same regulations and restrictions.<sup>44</sup>

**Fees.** § 14. The clerk of the town of Queensbury shall be entitled to a compensation of twenty-five cents for entering every such mark, to be paid by the person requesting the same to be entered; and a copy of such entry, certified by such clerk, shall be received as presumptive evidence, in all courts in this state, that the lumber having such mark, is the property of the person by whom such mark was selected and recorded.<sup>44</sup>

**Entry, evidence, &c.**

**Penalty for drawing timber, &c. floating, to above &c.** § 15. No person, not authorised as herein after directed, shall stop, take up, draw to, or lodge on the shore of Hudson river, or on any island therein, north of the south boundary line of the city of Albany, on either shore of said river, any logs, timber, boards, or plank floating in said river, without the consent of the owner thereof; and every person offending in the premises, shall, for every such offence, forfeit the sum of ten dollars, to be recovered by the overseers of the poor of the city or town where the offence was committed, for the use of the poor thereof.<sup>45</sup>

**Persons in Albany to be appointed to take care of timber, &c.** § 16. The common council of the city of Albany may, from time to time, appoint one or more persons resident therein, to take into possession any such logs, timber, boards, or plank, for the benefit of the owner thereof, in case such owner shall not reside in said city, or shall have no agent there, or shall be unknown. The persons so appointed shall proceed in the execution of their duties in such manner, and shall receive such compensation, as the said common council shall prescribe; but such compensation, in case of dispute, shall be settled by any two fence-viewers of the city.<sup>45</sup>



**When and how to be sold, &c.** § 17. If the owner of such lumber shall not, within three months from and after the time when such lumber shall have been taken into possession by the persons so appointed, take the same away, it shall be the duty of the persons so appointed, to deliver to the clerk of the city of Albany, a description of such lumber, in the manner prescribed in the fourth section of this Title; and in case no owner shall claim the same, within six months after filing such note in writing, it shall be the duty of the common council of said city, to direct a sale to be made thereof, by the clerk of said city, who shall give notice in the manner, and be entitled to the compensation above provided.<sup>45</sup>

**Proceeds of sale, how applied.** § 18. The monies arising from the sale, shall be first applied to the payment of the charges of sale, and the compensation of the persons by whom such lumber shall have been taken into possession; and the residue shall be paid to the chamberlain of said city; and the owner, or his representatives or assigns, shall, at any time within



twelve months thereafter, be entitled to demand and receive such residuary monies from the chamberlain of said city, on producing to the common council of said city, satisfactory proof of ownership.<sup>46</sup> TITLE 16.

§ 19. The rejection of any such claim by the common council, shall be conclusive against the right of the claimant, unless within six months after such rejection, he shall commence his action for such residuary monies, against the chamberlain of said city. Suit when to be brought.

§ 20. If no person shall claim such monies within twelve months after the payment thereof to the chamberlain, or if such claim be made and rejected, and no suit be brought as above provided, or no recovery had therein against the chamberlain, such monies shall remain for the use of the city of Albany.<sup>46</sup> When city to retain proceeds.

§ 21. Nothing contained in this Title shall be construed to extend to that kind of lumber called drift-wood.<sup>47</sup> Drift wood.

## TITLE XVI.

### OF THE PRESERVATION OF DEER AND CERTAIN GAME AND ANIMALS.

- Sec. 1. Prohibition against killing deer during certain months.
- 2. What shall be presumptive evidence of such killing.
- 3. Search warrants for skins, &c. when to be issued.
- 4. Penalty for violating first section, or concealing skins, &c.
- 5. Blood hounds, &c. not to be employed in hunting deer.
- 6. Penalty for setting traps, spears, &c. or watching, &c. to catch deer.
- 7. Heath-hens, quails, partridges and woodcock, not to be killed at certain times.
- 8. Penalty for violating last section.
- 9. Certain acts evidence of such violation.
- 10. Penalty for killing muskrats, except at certain times and places.
- 11. Penalties when and how sued for and applied.

§ 1. No person shall kill any wild buck, doe or fawn at any time during the months of January, February, March, April, May, June or July.<sup>48</sup> When deer not to be killed.

§ 2. Every person who shall expose to sale any green deer-skin or fresh venison, or who shall have the same in his custody, at any time during the months aforesaid, shall be deemed to have violated the first section of this Title, unless he prove that the buck, doe or fawn of which such green skin or venison was a part, was killed by some other person.<sup>48</sup> Presumptive evidence of such killing.

§ 3. Whenever any complaint shall be made to a justice of the peace, that a violation of the first section of this Title has been committed, and that any green deer-skin or deer's flesh is concealed, he shall inquire into the matter, and if satisfied by competent testimony, that there is reasonable cause of suspicion to justify such complaint, he shall issue his warrant to any constable of the town, authorising a search in the day time, of any house, store, out-house or other place, where such skin or flesh is suspected to be concealed, and such search shall be made accordingly.<sup>48</sup> When search warrant for skins, &c. may be issued.

(46) 2. R. L. p. 235, § 1. (47) Ib. § 5. (48) 2. R. L. p. 233, § 1, 2, 3, 4 & 5.

**TITLE 16.** § 4. Whoever shall violate the first section of this Title, or shall conceal any green deer-skin or fresh venison, shall forfeit twelve dollars and fifty cents.<sup>49</sup>

Penalties.

**Blood hounds &c.** § 5. No person shall at any time hunt, pursue or destroy any wild buck, doe or fawn with any blood-hound or beagle, and whoever shall offend herein, shall forfeit twelve dollars and fifty cents.<sup>49</sup>

**Traps, spears &c. watching in night.** § 6. No person shall set any trap, or any spear made of iron or other metal, or any sharp stick, either in or out of any pit, for the purpose of catching deer; nor shall any person watch in the night time for the purpose of shooting deer, within thirty rods of any highway: whoever offends against either of these provisions shall forfeit twenty-five dollars.<sup>49</sup>

**Killing of heath-hens, quails, partridges and woodcock, at certain times.** § 7. No person shall kill any heath-hens within the county of Queens, between the first day of January and the first Wednesday in October, nor in the county of Suffolk between the first day of January and the second Wednesday in September; nor shall any person kill any quails or partridges in the counties of Queens, Kings, Suffolk and New-York between the fifth day of January and the twenty-fifth day of September; nor in the county of Albany between the first day of March and the first day of October; nor shall any person kill any woodcock in any of the counties above named between the first day of February and the first day of July; nor shall any person kill any pheasants in the county of Albany between the first day of March and the first day of October.<sup>50</sup>

**Penalty.** § 8. Whoever shall offend against the provisions of the last section, by killing any heath-hen, shall forfeit twenty-five dollars; by killing any partridge, one dollar; and by killing any quail, woodcock or pheasant, fifty cents.<sup>50</sup>

**Evidence of having incurred penalty.** § 9. Every person who shall expose to sale any heath-hen, woodcock, quail, partridge or pheasant, in either of the said counties respectively, or shall have any of the said game in his possession in either of the said counties, during the time when the killing of such game is forbidden by law, shall be deemed guilty of killing the same game, within the time prohibited.<sup>50</sup>

**Killing muskrats.** § 10. No person shall kill any muskrat at any other place than along the line of some canal or artificial dam or embankment, between the first day of May and the first day of November in any year; whoever offends against this provision shall forfeit one dollar for every muskrat so killed.<sup>51</sup>

**Suits for penalties, &c.** § 11. The penalties prescribed in this Title, shall be sued for and recovered by and in the name of the overseers of the poor of the town where the offence was committed, in an action to be commenced

(49) 2. R. L. p. 233, § 1, 2, 3, 4 & 5. (50) Laws of 1818, p. 265, § 1; of 1822, p. 198; of 1824, p. 201. (51) Laws of 1820, p. 182.

within three months after the commission of the offence, and shall be applied for the use of the poor. TITLE 17.

**TITLE XVII.**

OF DOGS.

- Sec. 1.** Tax upon dogs in every county except New-York.  
**2.** Duty of assessors to make lists of owners of dogs, &c.  
**3.** Owner of dog to deliver description on demand ; penalty.  
**4.** Tax, how collected ; to whom to be paid.  
**5.** Duty of collector ; his authority and liability.  
**6.** Dog may be killed, after 5 days neglect to pay tax.  
**7.** Commissions to collector.  
**8.** Application of monies collected by tax.  
**9.** Owner of dog killing, &c. sheep, absolutely liable for damages.  
**10.** Damages from injuries to sheep by dogs, how ascertained.  
**11.** Certificate of fence-viewer, how far evidence.  
**12.** Application for damages to supervisor, how made.  
**13.** When board to order payment ; from what fund to be paid.  
**14.** Owner to refund amount, if subsequently recovered by him.  
**15.** Dogs chasing, &c. sheep, when they may be killed.  
**16.** Penalty on owner of dog for not killing it, after notice, &c.  
**17.** When owner of dog may be ordered by justice, to kill it.  
**18.** Penalty for disobeying such order.  
**19.** Supervisor bound to prosecute for penalties ; to pay over recoveries.  
**20.** Who to be deemed owners of dogs, within this Title.

§ 1. In all the counties of this state, except the county of New-York, there shall be annually levied and collected the following tax upon dogs : upon every bitch of three months old or upwards, kept by any one person or family, two dollars ; upon every additional bitch kept by the same person or family, five dollars ; upon two dogs, of six months old or upwards, other than bitches, kept by one person or family, one dollar ; upon every such dog more than two kept by the same person or family, three dollars.<sup>52</sup>

Tax on dogs, except in New-York.

§ 2. The assessors of any town, at the time of making their annual assessments, shall inquire and ascertain the number of dogs liable to be taxed ; and shall enter in lists to be made by them, the name of every person in their respective towns, then owning or keeping any dog, subject to the above tax, the number kept by such person, and the whole amount of the tax to be paid by him.<sup>52</sup>

Duty of assessors.

§ 3. The owner or possessor of every dog liable to the above tax, shall, whenever required by any assessor, deliver to him a description in writing of every such dog, owned or possessed by him. For every neglect or refusal so to do, and for every false statement, made in any description so furnished, he shall forfeit five dollars, to be recovered by the supervisor of the town.<sup>52</sup>

Owner to deliver description.

§ 4. The assessors of every town shall within the time required by law for the completion of their assessment rolls of real and personal property, make out a duplicate of the lists so by them made,

Tax how collected ; to whom to be paid.

## TITLE 17.

containing the names of the owners and possessors of dogs liable to taxation, with the amount payable by each person, and annex thereto a direction to the collector of the town, to levy, raise and collect the several sums in such lists specified, of the persons respectively, opposite to whose names the said sums shall be set, according to law, and pay over the same, after deducting his legal commissions, to the county treasurer; which shall be signed by them and be immediately delivered to the town collector.<sup>53</sup>

Duty of collector, proceedings, liability.

§ 5. The collector to whom such list shall be delivered, shall proceed and collect the sums of money therein specified, within sixty days from the time of such delivery, in the same manner and with the like authority, in all respects, as in the collection of taxes imposed by the supervisors of the county, and shall pay the same to the county treasurer, after deducting the commissions allowed by law; and the same remedies to compel such collection and the payment over of the monies collected, may be had against such collectors and their sureties, as in the case of taxes levied by supervisors.<sup>53</sup>

When dog may be killed.

§ 6. If any person duly assessed shall refuse or neglect to pay the tax so assessed, for five days after demand thereof, it shall be lawful for any person to kill the dog so taxed.<sup>53</sup>

Collector's fee.

§ 7. The collectors shall be allowed to retain a commission of five dollars upon the hundred dollars, and at that rate upon all sums collected by them, pursuant to the directions of the assessors.<sup>53</sup>

Tax how applied.

§ 8. The monies so collected and paid to any county treasurer, shall constitute a fund for the satisfying such damages as may arise in any year from dogs killing or injuring sheep in such county, and the residue for the use of the poor of the county.<sup>53</sup>

Liability of owners of dogs for injuries.

§ 9. The owner or possessor of any dog that shall kill or wound any sheep or lamb, shall be liable for the value of such sheep or lamb to the owner thereof, without proving notice to the owner or possessor of such dog, or knowledge by him, that his dog was mischievous or disposed to kill sheep.<sup>54</sup>

Fence viewers to ascertain damage by injuries to sheep.

§ 10. The owner of any sheep or lambs that may be killed or injured by any dog, may apply to any two fence-viewers of the town, who shall inquire into the matter, and view the sheep injured or killed, and may examine witnesses in relation thereto, for which purpose either of them shall have power to administer oaths. If they are satisfied that the same were killed or hurt only by dogs, and in no other way, they shall certify such fact, the number of the sheep killed or hurt, and the amount of the damages sustained thereby by the owner, together with the value of the sheep hurt or killed.<sup>55</sup>

(53) Laws of 1826, p. 149, § 1, 2, 3, 5 & 7. (54) 1. R. L. p. 169, § 1, and act of 1826, p. 149, § 6. (55) Laws of 1826, p. 149, § 5 & 6.

§ 11. The said certificate shall be presumptive evidence of the facts therein contained, in any suit that may be brought by the party injured against the owner or possessor of any dog, if it shall appear on the trial of such suit that due notice was given to the owner of the dog of the intended application to the fence-viewers.<sup>56</sup>

TITLE 17.  
Their certificate evidence

§ 12. If the party injured can not discover the owner or possessor of the dogs by which such damage was done, or shall fail to recover the value of the sheep killed or injured, against such owner or possessor, he may apply to the supervisor of the town, and upon producing to him the certificate of the fence-viewers, made as aforesaid, and his own affidavit that he has not been able to discover such owner or possessor, or that he has failed to recover his damages from such owner or possessor, the said supervisor shall lay the same before the board of supervisors of the county at their next meeting.<sup>56</sup>

Applications for damages.

§ 13. The board of supervisors shall issue their order on the county treasurer, for the amount of the damages appearing by the certificate of the fence-viewers, to have been sustained by the owner of any sheep killed or injured by dogs, where they shall be satisfied that the owner or possessor of such dogs can not be discovered, or that the party injured has failed to recover such damages of such owner or possessor; which shall be paid by the county treasurer, from the fund constituted by the eighth section of this Title, and from no other monies.<sup>56</sup>

Payment when to be ordered:

from what fund to be made.

§ 14. If after receiving the amount of such damages from the county treasurer, the owner of the sheep so killed or injured shall recover the value thereof, or any part of such value, from the owner or possessor of any dog, he shall refund and repay to the county treasurer the sum so received from him, for which it shall be the duty of the supervisor of the town to bring an action against such owner, in case of his refusal, in the name of the county treasurer, and to pay into the county treasury the sum so collected.<sup>56</sup>

If damages recovered subsequently to be refunded.

§ 15. Any person may kill any dog which he shall see chasing, worrying or wounding any sheep, unless the same shall be done by the direction or permission of the owner of the sheep, or his servant.<sup>57</sup>

Dogs chasing, &c. sheep, to be killed.

§ 16. The owner or possessor of every dog, to whom notice shall be given of any injury done by his dog to any sheep, or of his dog having chased or worried any sheep, shall within forty-eight hours after such notice, cause such dog to be killed; for every neglect so to do, he shall forfeit two dollars and fifty cents, and the further sum of one dollar and twenty-five cents for every forty-eight hours thereafter, until such dog shall be killed, unless it shall satisfactorily appear to the court before which a suit shall be brought for the recovery

After notice, &c. owner of dog to kill it.

(56) Laws of 1926, p. 149, § 5 & 6. (57) 1 R. L. 169, § 1 & 7.

TITLE 18. of the said penalties, that it was not in the power of such owner or possessor to kill such dog.<sup>58</sup>

When justice may order owner of dog to kill it.

§ 17. If any dog shall attack any person peaceably travelling on any highway, or any horse in a carriage, or upon which any person shall be mounted, and complaint thereof be made to a justice of the peace, such justice shall inquire into the complaint, and if satisfied of its truth, and that such dog is dangerous, he shall order the owner or possessor of such dog to kill him immediately.<sup>59</sup>

Penalty for neglect.

§ 18. The owner or possessor of any dog, who shall refuse or neglect to kill him within forty-eight hours after having received such order, shall forfeit the sum of two dollars and fifty cents, and the further sum of one dollar and twenty-five cents for every forty-eight hours thereafter, until such dog be killed.<sup>60</sup>

Supervisor to sue for penalties.

§ 19. Upon complaint being made to any supervisor of a town, of any penalties imposed by this Title having been incurred, he shall commence a suit, for the recovery thereof, in his name of office, and prosecute the same with due diligence; and the monies recovered shall be by him paid to the county treasurer, to be added to the fund herein before provided for the satisfaction of damages sustained by owners of sheep.

Who to be deemed owners of dogs.

§ 20. Every person in possession of any dog, or who shall suffer any dog to remain about his house for the space of twenty days, previous to the assessment of a tax, or previous to any injury, chasing or worrying of sheep, or any such attack made by a dog, shall be deemed the owner of such dog, for all the purposes of this Title.<sup>60</sup>

## TITLE XVIII.

### OF THE DESTRUCTION OF WOLVES, AND OTHER NOXIOUS ANIMALS.

- Sec. 1. Bounty allowed for killing wolves and their whelps.
2. Head of wolf to be taken to a justice of the town; duty of justice.
3. Claimant of bounty to be examined on oath, &c.
4. When certificate to be granted; ears and scalp of wolf to be destroyed, &c.
5. Certificate, &c. to be left with supervisor, who may require further proof.
6. Certificate, &c. to be laid before board of supervisors; proceedings by them.
7. Duplicate certificates to be made and delivered to county treasurer, who is to pay bounty.
8. One half of bounty to be charged to the state; vouchers to be sent to comptroller.
9. Comptroller to examine accounts; may require further proof.
10. Proceedings if further proof be not given; effect of comptroller's decision.
11. Sums allowed by comptroller to be paid to county treasurer.
12. Supervisors of certain counties may allow bounties for killing wolves and panthers.
13. Punishment of justices and officers for giving false certificate.

Bounty for killing wolves, &c.

§ 1. Every person, being at the time an inhabitant of this state, who shall kill a full grown wolf, or a wolf's whelp, within any county of this state, shall be entitled to a bounty of ten dollars, for each

full grown wolf, and five dollars for each wolf's whelp, to be allowed and paid in the manner herein after provided.<sup>61</sup>

TITLE 18.

§ 2. Every person intending to apply for such bounty, shall take every wolf or wolf's whelp killed by him, or the head thereof with the skin and ears entire thereon, to one of the justices of the peace of the town in which such wolf or whelp shall have been taken, who shall thereupon associate with himself one of the assessors or overseers of the poor, or commissioners of highways, of such town, to act with him in deciding upon such application.<sup>61</sup>

Head to be carried to justice, &c.

§ 3. The person claiming such bounty shall then and there be sworn by such justice, and shall state, on oath, the time and place when and where every wolf or wolf's whelp for which a bounty is claimed by him, was taken and killed. He shall also submit to such further examination, on oath, concerning the taking and killing such wolf or whelp, as the justice and officer associated with him may require, and the statements made by him on such examination shall be reduced to writing, in the form of an affidavit, which shall be subscribed by the person making it.<sup>61</sup>

Claimant to be examined, &c.

§ 4. If it shall appear to the justice and officer associated with him, upon such examination, that the wolf or whelp was taken and killed within this state, by the person applying for the bounty, and that the mother of such whelp was not taken before she brought forth the same, they shall cut off and burn the ears and scalp of such wolf or whelp, and deliver to the person so applying a certificate of the facts, annexing thereto the original affidavit made and subscribed by such person. And every justice who shall issue any such certificates, shall regularly number all the certificates issued by him during each year, and shall mark such number and year on each certificate.<sup>61</sup>

Certificate, when to be granted.

To be numbered, &c.

§ 5. The certificate, with the affidavit so taken, shall, within five days after the date thereof, be delivered to the supervisor of the town where the same was made, or be left at the dwelling-house of such supervisor, in case of his absence. If such supervisor shall doubt the correctness of the certificate or affidavit, he shall give notice to the person claiming the bounty, to give further evidence of the correctness thereof, and shall retain the papers in his hands, until such further proof shall be made.<sup>61</sup>

To be left with supervisor.

He may require further proof.

§ 6. If such supervisor shall have no doubt as to the correctness of such certificate and affidavit, or if his doubts shall be removed by further proof, he shall lay such certificate and affidavit before the board of supervisors of the county. If the board shall be satisfied that such certificate and affidavit are just and correct, they shall award to the person to whom such certificate shall have been granted, the bounty

Certificate, &c. to be presented to board of supervisors.

Proceedings of board.

(61) Laws of 1822, p. 26, § 1, 2, 3, 4, 5, 8 & 11.

**TITLE 12.** above specified, and shall cause the certificate and affidavit to be filed with their clerk.<sup>62</sup>

On what  
vouchers  
bounty to  
be paid by  
county treas-  
urer.

§ 7. Duplicate certificates, stating all the bounties that shall have been allowed by the board at any meeting, shall be made under their direction, and after being certified by their chairman and clerk, shall be delivered to the county treasurer, who shall thereupon pay to the several persons named in such certificate, out of any monies in the county treasury, the bounties to them respectively allowed.<sup>62</sup>

One half to  
be charged to  
the state.

§ 8. The county treasurer shall charge to the treasurer of the state, the one half of all bounties allowed by the boards of supervisors of their respective counties, and shall transmit an account thereof to the comptroller, accompanied by one of the duplicate certificates received from the board of supervisors. The several county treasurers shall also procure and transmit with such account, a certified copy of the original certificates and affidavits filed with the clerk of the board of supervisors, upon which the bounties mentioned in such account shall have been allowed.<sup>62</sup>

Vouchers to  
be sent to  
comptroller.

Duty of  
comptroller;

may require  
further proof.

§ 9. The comptroller shall examine every account so to be received by him; and if he shall suspect that any such account, or any part thereof, ought not to be allowed, he may suspend, either in whole, or in part, as he may think proper, the payment of such account, until satisfactory proof be made to him, by affidavit, or otherwise, of the justice of such account.<sup>62</sup>

Consequence  
of its not be-  
ing given.

§ 10. If the further proofs produced to the comptroller, shall not be satisfactory to him, he shall reject such portion of the account as shall have been suspended; and his decision thereon shall be final and conclusive.

Sums allow-  
ed to be paid  
to county  
treasurer.

§ 11. Every sum audited and allowed by the comptroller, upon any such account, not exceeding the one half of the bounties allowed by the board of supervisors of the county from which the same shall have been transmitted, shall be paid out of the treasury of this state, to the treasurer of such county.

Further  
bounties by  
certain coun-  
ties.

Proof requir-  
ed.

§ 12. The boards of supervisors of the several counties of Allegany, Broome, Cattaraugus, Clinton, Delaware, Essex, Greene, Jefferson, Herkimer, Oneida, St. Lawrence, Steuben, Sullivan, and Ulster, shall have power, at the expense of their respective counties, to award and allow such other and further bounties, for the destruction of wolves and wolf whelps, and such bounties for the destruction of panthers, as they may think proper; not exceeding ten dollars for each grown wolf, five dollars for each wolf whelp, and five dollars for each panther. The same proof shall be required in such cases, as is herein before prescribed, and such additional bounties, when duly allowed and certified, shall be paid out of the county treasury.<sup>63</sup>

(62) Laws of 1822, p. 26, § 1, 2, 3, 4, 5, 8 & 11. (63) *Ib.* § 12, and laws of 1825, p. 136, § 1.



§ 13. If any justice of the peace, or other officer, who shall be applied to for a certificate under this Title, shall wilfully give a false certificate in the premises, such justice, or other officer shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by fine, or imprisonment, the fine not to exceed one thousand dollars, and the imprisonment not to exceed two years.<sup>64</sup>

ART. 1.  
Penalty for false certificates.

**TITLE XIX.**

**OF BROKERAGE, STOCK-JOBGING, AND PAWN-BROKERS.**

- ART. 1.—Regulations concerning brokers.
- ART. 2.—Of stock-jobbing.
- ART. 3.—Of pawn-brokers.

**ARTICLE FIRST.**

*Regulations concerning Brokers.*

- Sec. 1. Rate of brokage, &c. and fee for making bond, &c. prescribed.
- 2. Excess over rate, may be recovered back within one year.
- 3. If neglected for a year, overseers of poor may recover excess.
- 4. Persons liable to be sued, may be compelled to discover, &c.
- 5. Persons discovering and returning excess, exonerated from further penalty.

§ 1. No person shall, directly or indirectly, take or receive more than fifty cents for a brokage, soliciting, driving, or procuring the loan or forbearance of one hundred dollars for one year, and in that proportion for a greater or less sum; nor more than thirty-eight cents, for making or renewing any bond, bill, note or other security given for such loan or forbearance, or for any counter bond, bill, note, or other security concerning the same.<sup>65</sup>

Rate of brokage, &c.  
Fee for making, &c. bond, &c.

§ 2. Every person who shall pay, deliver, or deposit any money, property, or thing in action, over and above the rate aforesaid, and his personal representatives may, within one year after such payment, delivery, or deposit, sue for and recover the same of the person so taking or receiving such money, property, or thing in action, or of his personal representatives.

Excess may be recovered back.

§ 3. In case such suit shall not be brought within the time above prescribed, in good faith, or in case it shall be discontinued, or wilfully delayed, then the overseers of the poor of the city or town where the offence was committed, may, within one year after such neglect, discontinuance, or delay, sue for and recover the money, property, or thing in action, so received, delivered, or deposited, from the person receiving the same, or his personal representatives, for the use of the poor of the county.

When overseers of poor may recover excess.

§ 4. Every person who shall be liable to be sued by virtue of the foregoing provisions, shall be obliged and compellable to answer

Discovery, &c. compelled.

(64) Laws of 1822, p. 26, § 12, and Laws of 1825, p. 126, § 1. (65) The provisions of this Title, with some variations, are taken from 1 R. L. p. 65, § 3 & 4.

**TITLE 19.** upon oath, any bill that shall be preferred against him in the court of chancery, for discovering the money, property or thing in action so illegally received, and may be compelled by the decree of such court to return the same.

Discovery, &c. to avoid; credit from further penalty.

§ 5. Upon the discovery of the money, property, or other thing so illegally received, and the repayment and return thereof, with the payment of the costs of such suit, the person making such discovery and return shall be acquitted and discharged from any other punishment, forfeiture or penalty, which he may have incurred by reason of having so illegally received such money, property, or other thing so discovered and returned.

#### ARTICLE SECOND.

##### *Of Stock-Jobbing.*

Sec. 6. Contracts for sale of stocks void, unless seller own the stock.

7. Wagers concerning prices of stocks, &c. void.

8. Money, &c. delivered upon contracts or wagers, to be recovered back.

Contracts for sale of stocks void, unless seller own the stock.

§ 6. All contracts, written or verbal, for the sale or transfer of any certificate or other evidence of debt due by or from the United States or any separate state, or of any share or interest in the stock of any bank, or of any company incorporated under any law of the United States or of any individual state, shall be absolutely void, unless the party contracting to sell or transfer the same shall, at the time of making such contract, be in the actual possession of the certificate or other evidence of such debt, share or interest, or be otherwise entitled in his own right, or be duly authorised by some person so entitled, to sell or transfer the said certificate or other evidence of debt, share or interest so contracted for.<sup>66</sup>

Wagers upon price of stock void.

§ 7. All wagers concerning the price or prices, present or future, of any part of any debt due by or from the United States or any separate state, or of any share or interest in the stock of any bank or other company incorporated under the laws of the United States or any individual state, or of any certificate or other evidence of any such debt or part of such debt, or of any such share or interest, shall be void.<sup>66</sup>

Money, &c. delivered, may be recovered back.

§ 8. Every person who shall pay or deliver any money, goods or thing in action, by way of premium or difference, in pursuance of any contract or wager in the two last sections declared void, and his personal representatives, may recover such money, goods or other thing in action, of and from the party receiving the same, and his personal representatives.<sup>66</sup>

#### ARTICLE THIRD.

##### *Of Pawnbrokers.*

Sec. 9. Pawnbroking for more than legal interest, unless licensed, prohibited.

10. When search warrant to issue for property pledged with pawnbroker.

SEC. 11. Powers of constable in executing such warrant.

12. Property seized to be restored, or delivered to claimant on giving bond.

13. Penalty and condition of bond to be given by claimant.

TITLE 30.

§ 9. No person shall carry on the business of a pawnbroker, by receiving goods in pledge for loans at any rate of interest above that allowed by law, except in those cities where by their charters the corporations have the power of licensing such pawnbrokers. A violation of this provision shall be deemed a misdemeanor.

Pawnbroking prohibited, except in cities.

§ 10. Whenever any person shall make oath before any justice of the peace, police justice or assistant justice, that any property belonging to him has been embezzled or taken without his consent, and that he has reason to believe and suspect, and does suspect that such property has been pledged with any pawnbroker, such justice, if satisfied of the correctness of such suspicions, shall issue his warrant, directed to any constable of the city or place, commanding him to search for the property so alleged to have been embezzled or taken, and to seize and bring the same before such justice.

Search warrants for property pawned

§ 11. The constable to whom any such warrant shall be directed and delivered, shall have the same power to execute the same, and shall proceed in the same manner as in the case of a search warrant issued upon a charge of larceny.

How to be executed.

§ 12. Upon any property so seized by virtue of such warrant, being brought before the magistrate who issued the same, he shall cause such property to be delivered to the person so claiming to be the owner thereof, on whose application the warrant was issued, on his executing a bond as herein after directed; and if such bond be not executed within twenty-four hours, such justice shall cause the said property to be delivered to the person from whose possession it was taken.

Property seized, how disposed of.

§ 13. Such bond shall be in a penal sum equal to double the value of the property claimed, with such surety as the justice shall approve, to the person from whose possession the property was taken, with a condition that the person so claiming the same will on demand pay all damages that shall be recovered against him in any suit to be brought within thirty days from the date of such bond, by the pawnbroker from whose possession the said property was taken.

Bond to be given by claimant.

## TITLE XX.

### OF UNAUTHORISED BANKING, AND THE CIRCULATION OF CERTAIN NOTES OR EVIDENCES OF DEBT ISSUED BY BANKS.

- SEC. 1. Associations for certain banking purposes, prohibited.  
 2. Penalty for subscribing, becoming member or interested.  
 3. Unauthorised corporations prohibited from certain banking operations.  
 4. Penalty on officers, &c. for violating last section.  
 5. Notes, &c. on loans made contrary to former sections, void.  
 6 & 7. Penalty on unauthorised persons engaging in banking operations.

**TITLE 90.**    **Sec. 8. Circulation of bank bills under one dollar, prohibited.**



9. Penalty, how and in what time to be sued for.
10. Bank bills payable otherwise than in money, not to be circulated.
11. Penalty, in what time and how to be sued for.
12. Bank bills receivable for debts, to be deemed promissory notes.
13. Penalties, how to be sued for and applied.

Associations  
for certain  
banking pur-  
poses, pro-  
hibited.

§ 1. No person unauthorised by law, shall subscribe to, or become a member of, or be in any way interested in, any association, institution or company, formed, or to be formed, for the purpose of receiving deposits, making discounts or issuing notes or other evidences of debt, to be loaned or put in circulation as money; nor shall any person unauthorised by law, subscribe to or become in any way interested in, any bank or fund created, or to be created for the like purposes, or either of them.<sup>67</sup>

Penalty.

§ 2. Whoever shall subscribe to or become a member in any such company, or interested in any such bank or fund, shall forfeit one thousand dollars.<sup>67</sup>

Prohibition of  
unauthorised  
corporations.

§ 3. No incorporated company, without being authorised by law, shall employ any part of its effects, or be in any way interested in any fund that shall be employed, for the purpose of receiving deposits, making discounts or issuing notes or other evidences of debt, to be loaned or put into circulation as money.

Penalty.

§ 4. Any director, or other agent or officer, of any incorporated company, who shall violate any provision of the last section, shall forfeit one thousand dollars.

Notes, &c. on  
forbidden  
loans, void.

§ 5. All notes and other securities for the payment of any money or the delivery of any property, made or given to any such association, institution or company, that shall be formed for the purpose expressed in the first section of this Title, or made or given to secure the payment of any money loaned or discounted by any incorporated company or its officers, contrary to the provisions of the third section of this Title, shall be void.<sup>67</sup>

Persons un-  
authorised  
not to engage  
in certain  
banking ope-  
rations.

§ 6. No person, association of persons or body corporate, except such bodies corporate as are expressly authorised by law, shall keep any office for the purpose of receiving deposits, or discounting notes or bills, or issuing any evidences of debt, to be loaned, or put in circulation as money: nor shall they issue any bills or promissory notes or other evidences of debt as private bankers, for the purpose of loaning them, or putting them in circulation as money, unless thereto specially authorised by law.<sup>68</sup>

Penalty.

§ 7. Every person and every corporation, and every member of a corporation, who shall contravene either of the provisions in the last section, or, directly or indirectly, assent to such violation, shall forfeit one thousand dollars.<sup>69</sup>

(67) 2 R. L. 234, § 2. (68) Laws of 1818, p. 242, § 1 & 2.

§ 8. No person shall pay, give, or receive in payment, or in any way circulate, or attempt to circulate, any bank bill, or promissory note, check, draft, or other evidence of debt, issued by any banking company within this state, or elsewhere, which shall purport to be for the payment of a less sum of money than one dollar.<sup>70</sup>

TITLE 22.

Bank bills under one dollar not to be circulated.

§ 9. Whoever shall offend against any provision of the last section, shall forfeit the nominal amount of the bill, promissory note, check, draft, or other evidence of debt so given, paid, received, circulated, or attempted to be circulated, to any person who will sue for the same, in the name of the overseers of the poor of the town where the offence is committed, with their consent, and under their direction, in an action to be commenced within thirty days after the commission of the offence.<sup>70</sup>

Penalty, in what time & how to be sued for.

§ 10. No person shall give, pay, or receive in payment, or in any way circulate, or attempt to circulate, any bank bill, or any promissory note, bill, check, draft, or other evidence of debt, issued by any banking company whatever, which shall be made payable otherwise than in lawful money of the United States.<sup>71</sup>

Bank bills payable otherwise than in money.

§ 11. Every person offending against any provision of the last section, shall forfeit the nominal amount or value of such bill, note, or other evidence of debt so given, paid, received, circulated, or offered, to any person who will sue for the same, in the name of the overseers of the poor of the town where the offence shall be committed, with their consent and under their direction, in an action to be commenced, within sixty days after the commission of the offence.<sup>71</sup>

Penalty, in what time, and how to be sued for.

§ 12. All bills, notes, or other instruments which shall be issued by any banking company, purporting to be receivable in payment of debts due to such company, shall be deemed and taken to be promissory notes for the payment, on demand, of the sum or value expressed in such instrument; and such sum shall be recoverable by the holder or bearer of such instrument, in like manner as if the same were a promissory note.<sup>72</sup>

Certain bills declared to be promissory notes.

§ 13. The penalties prescribed in this Title, where no other provision is made, shall be recovered by suits in the name of the people of this state, to be prosecuted by the district attorneys of the counties respectively where the offences may be committed. All penalties herein prescribed, when collected, shall be paid to the county treasurer of the county, for the use of the poor thereof.

Penalties, how to be sued for and applied.

(70) 2 R. L. p. 285, § 2. (71) Laws of 1824, p. 303. (72) Laws of 1816-17, p. 12.

## TITLE XI.

## TITLE XXI.

## OF INSURANCES ON PROPERTY IN THIS STATE MADE IN FOREIGN COUNTRIES, AND BY INDIVIDUALS AND ASSOCIATIONS UNAUTHORISED BY LAW.

- SEC. 1. Insurances against loss by fire, by foreigners or their agents, prohibited.  
 2. Penalty, and application thereof.  
 3. Premium to be paid by agents of certain insurance companies of other states.  
 4. Persons not to act as agents without giving bond.  
 5. Penalty for making, &c. insurance, without having given bond.  
 6. Penalties how collected and applied.

Certain insurances by foreigners prohibited.

§ 1. No person, association, or company of persons, residing in any foreign country, and no incorporation established in a foreign country, nor any person in behalf of them or any of them, shall directly or indirectly make any contract of insurance, or by way of insurance, against loss or injury by fire, upon any house, building or goods, situated or being in this state.<sup>73</sup>

Penalty.

§ 2. Whoever shall offend against the foregoing provision, shall forfeit one thousand dollars, for the use of the poor of the county where such illegal contract shall be made.<sup>73</sup>

Premium to be paid by agents of certain insurance companies of other states.

§ 3. There shall be paid into the treasury of this state, on the first day of February in each year, by every person who shall act as agent for any individuals or associations of individuals not incorporated and authorised by the laws of this state to effect insurances against losses by fire, although such individuals or association may be incorporated for that purpose by any other state, the sum of ten dollars upon the hundred dollars, and at that rate upon the amount of all premiums, which, during the year ending on the preceding first day of September, shall have been received by such agent or any other person for him, or shall have been agreed to be paid, for any insurances effected, or agreed to be effected or procured by him as such agent against loss or injury by fire.<sup>74</sup>

Bond to be given by agents.

§ 4. No person shall, as agent for any individuals or association, effect or agree to effect any insurances, upon which the duty above mentioned is required to be paid, or as agent or otherwise procure such insurance to be effected, until he shall have executed and delivered to the comptroller a bond to the people of this state, in the penal sum of one thousand dollars, with such sureties as the comptroller shall approve, with a condition that he will annually render to the comptroller, on the first day of February in each year, a just and true account of all premiums which, during the year ending on the first day of September preceding such report, shall have been received by him or by any other person for him, or agreed to be paid for any insurance against loss or injury by fire, which shall have been effected by him or agreed to be effected as such agent, or which shall have been procured by him from any individuals or association not autho-

(73) Laws of 1814, p. 52, ch. 49, § 1 & 2. (74) Laws of 1824, p. 340.

rised as aforesaid ; and that he will annually, on the first day of February in each year, pay into the treasury of this state, ten dollars upon the hundred dollars, and at that rate, upon the amount of such premiums.<sup>75</sup>

TITLE 21.  
Its penalty and condition.

§ 5. Every person who shall effect, agree to effect, or procure any insurance specified in the preceding third section of this Title, without having executed and delivered such bond, shall forfeit five hundred dollars, for the use of the poor of the county where the offence shall be committed.<sup>75</sup>

Penalty.

§ 6. The penalties imposed in this Title shall be collected in the name of the people of this state, by the district attorney of the county where the offence shall be committed, for the use of the poor thereof.

Penalties how collected and applied.

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(75) Laws of 1824, p. 340.



[The preceding twenty Chapters, constituting the FIRST PART OF THE REVISED STATUTES, were finally passed as one Act, by the Senate and Assembly, on the 3d of December, 1827, and were on the same day approved and signed by DE WITT CLINTON, Governor of the State.]



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**CHAPTER III**

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**REVISED STATUTES**  
**OF THE**  
**STATE OF NEW-YORK.**

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**PART II.**

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**AN ACT**

**Concerning the acquisition, the enjoyment and the transmission of property, real and personal; the domestic relations, and other matters connected with private rights.**

**WHEREAS** it is expedient that the several statutes of this state, relating to the acquisition, the enjoyment and the transmission of property, real and personal; the domestic relations, and certain matters connected with private rights; should be consolidated and arranged in appropriate chapters, titles and articles; that the language thereof should be simplified; and that omissions and other defects should be supplied and amended: Therefore,

The People of the State of New-York, represented in Senate and Assembly, do declare and enact as follows:—

**CHAPTER I.**

**Of Real Property, and of the Nature, Qualities and Alienation of Estates therein.**

**TITLE 1.**—Of the tenure of real property, and the persons capable of holding and conveying estates therein.

**TITLE 2.**—Of the nature and qualities of estates in real property, and the alienation thereof.

**TITLE 3.**—Of estates in dower.

**TITLE 4.**—Of estates for years, and at will, and the rights and duties of landlords and tenants.

**TITLE 5.**—Miscellaneous provisions of a general nature.

## TITLE I.

## TITLE I.

## OF THE TENURE OF REAL PROPERTY, AND THE PERSONS CAPABLE OF HOLDING AND CONVEYING ESTATES THEREIN.

ART. 1.—Of the tenure of real property.

ART. 2.—Of the persons capable of holding and conveying lands.

## ARTICLE FIRST.

*Of the Tenure of Real Property.*

- SEC. 1. People of this state deemed original owners of lands therein.
2. Escheated land to be held subject to trusts, &c.; how executed.
  3. Lands declared allodial; feudal tenures abolished.
  4. Abolition of tenures not to affect certain rights, or powers of courts.
  5. Guardianship of infants owning lands, to whom it belongs.
  6. Provisions respecting guardians in soccage, to apply to them.
  7. Superseded by appointment of testamentary or other guardian.

The People,  
original owners  
of lands  
in this state.

SECTION 1. The people of this state, in their right of sovereignty, are deemed to possess the original and ultimate property in and to all lands within the jurisdiction of the state; and all lands, the title to which shall fail, from a defect of heirs, shall revert or escheat to the people.<sup>1</sup>

To hold es-  
cheated land  
subject to  
trusts, &c.

§ 2. All escheated lands, when held by the state, or its grantees, shall be subject to the same trusts, incumbrances, charges, rents, and services, to which they would have been subject, had they descended; and the court of chancery shall have power to direct the attorney-general to convey such lands to the parties equitably entitled thereto, according to their respective rights, or to such new trustee as may be appointed by such court.

How trusts,  
&c. executed.

All lands  
allodial.

§ 3. All lands within this state are declared to be allodial, so that, subject only to the liability to escheat, the entire and absolute property is vested in the owners, according to the nature of their respective estates; and all feudal tenures, of every description, with all their incidents, are abolished.<sup>2</sup>

Feudal  
tenures  
abolished.

Certain  
rights, &c.  
not to be  
affected.

§ 4. The abolition of tenures shall not take away or discharge, any rents or services certain, which at any time heretofore, have been, or hereafter may be, created or reserved; nor shall it be construed to affect or change the powers or jurisdiction of any court of justice in this state.<sup>2</sup>

Who to be  
guardians of  
infants own-  
ing lands.

§ 5. Where an estate in lands shall become vested in an infant, the guardianship of such infant, with the rights, powers and duties of a guardian in soccage, shall belong,

1. To the father of the infant:
2. If there be no father, to the mother:
3. If there be no father or mother, to the nearest and eldest relative of full age, not being under any legal incapacity; and as between relatives of the same degree of consanguinity, males shall be preferred.

(1) 1 R. L. p. 390, § 2. (2) Ib. p. 70, § 2 to 6.

§ 6. To every such guardian, all statutory provisions that are or shall be in force, relative to guardians in soccage, shall be deemed to apply.

ART. 2.  
Subject to certain laws.

§ 7. The rights and authority of every such guardian shall be superseded, in all cases where a testamentary or other guardian shall have been appointed under the provisions of the third Title of the eighth Chapter of this act.

When superseded.

ARTICLE SECOND.

*Of the Persons capable of holding and conveying Lands.*

Sec. 8. Citizens of U. States capable of holding, &c. lands in this state.

9. Titles of possessors at certain time, of lands, not to be affected by alienism, &c.
10. Who capable of aliening lands.
11. Purchases from Indians since certain time, void, &c.
12. Indians cannot dispose of or contract for, &c. land, except, &c.
13. Heirs of certain Indian patentees, may convey in certain manner.
14. Occupants of lands so conveyed to be paid for improvements.
15. Resident aliens may make certain deposition.
16. Right thereafter to hold lands and make certain dispositions of them.
17. Not to hold lands acquired previous to making such deposition.
18. If alien die within six years, his heirs may inherit lands.
19. Aliens may take mortgages on sales of certain lands, &c.
20. Liabilities and incapacities of aliens holding lands.

§ 8. Every citizen of the United States is capable of holding lands within this state, and of taking the same by descent, devise or purchase.

Who capable to hold lands.

§ 9. No title or claim of any citizen of this state, who was in the actual possession of lands on the twenty-first day of April, one thousand eight hundred and twenty-five, or at any time before, shall be defeated or prejudiced on account of the alienism of any person through or from whom his title or claim to such lands may have been derived.

Certain titles not to be affected by alienism.

§ 10. Every person capable of holding lands, (except idiots, persons of unsound mind, and infants,) seised of, or entitled to, any estate or interest in lands, may alien such estate or interest at his pleasure, with the effect, and subject to the restrictions and regulations provided by law.<sup>2</sup>

Who capable of aliening lands.

§ 11. No purchase or contract for the sale of lands in this state, since the fourteenth day of October, one thousand seven hundred and seventy-five, or which may hereafter be made, with the Indians in this state, is valid, unless made under the authority and with the consent of the legislature of this state.<sup>3</sup>

Certain purchases from Indians, void.

§ 12. No Indian residing within this state, can make any contract for or concerning the sale of any lands within this state, or in any manner give, sell, devise or otherwise dispose of any such lands, or any interest therein, without the authority and consent of the legislature of this state, except as herein after provided.<sup>4</sup>

Sales, &c. by Indians, prohibited.

(2) 1 R. L. p. 70, § 1, and p. 74, § 5. (3) Cons. art. 7, § 12. (4) 2 R. L. 153, § 1.

## TITLE 3.

Heirs of certain Indians may convey, &c.

§ 13. The heirs of every Indian to whom land has been granted for military services rendered during the war of the revolution, shall be and are capable of taking and holding any such lands by descent, in the same manner as if such heirs were citizens of this state, at the death of their ancestors; and every conveyance executed by such patentee, or his heirs, after the seventh day of March, one thousand eight hundred and nine, to any citizen of this state, for any such land, shall be valid, if executed with the approbation of the surveyor-general of this state, to be expressed by an endorsement made on such conveyance and signed by him.<sup>5</sup>

Improvements to be paid for.

§ 14. If any land so conveyed shall have been occupied or improved, at the time of such conveyance, the occupant, his heirs or assigns, shall be entitled to be paid for the improvements made by them, or either of them, in the manner provided in the second section of the act, entitled "An act concerning lands in the military tract," passed April 8, 1813.<sup>5</sup>

Resident aliens may make deposition, &c. to be filed, &c. by secretary of state.

§ 15. Any alien who has come, or who may hereafter come into this state, may make a deposition or affirmation in writing, before any officer authorised to take the proof of deeds to be recorded, that he is a resident in this state, and intends always to reside in the United States, and to become a citizen thereof, as soon as he can be naturalized, and that he had taken such incipient measures as the laws of the United States require, to enable him to obtain naturalization; which shall be certified by such officer, and be filed and recorded by the secretary of state, in a book to be kept by him for that purpose. And such certificate, or a certified copy thereof, shall be evidence of the facts therein contained.<sup>6</sup>

Entitled thereafter to hold lands; may dispose of them, but not to lease.

§ 16. Any alien who shall make and file such deposition, shall thereupon be authorised and enabled to take and hold lands and real estate, of any kind whatsoever, to him, his heirs and assigns forever, and may, during six years thereafter, sell, assign, mortgage, devise and dispose of the same, in any manner, as he might or could do if he were a native citizen of this state, or of the United States, except that no such alien shall have power to lease or demise any real estate, which he may take or hold by virtue of this provision, until he becomes naturalized.<sup>6</sup>

Not to hold lands previously acquired.

§ 17. Such alien shall not be capable of taking or holding any lands or real estate, which may have descended, or been devised or conveyed to him previously to his having become such resident, and made such deposition or affirmation as aforesaid.<sup>6</sup>

Heirs to inherit in certain cases.

§ 18. When such alien shall die within six years after making and filing such deposition, intestate, leaving heirs inhabitants of the United States, such heirs shall take by descent, and hold any real

estate of which such alien died seised, in the same manner as they would have inherited if such alien had been, at the time of his death, a citizen of this state.<sup>7</sup> ART. 1.

§ 19. If any alien shall sell and dispose of any real estate, which he is entitled by law to hold and dispose of, he, his heirs and assigns, may take mortgages in his or their own name, as a collateral security for the purchase money due thereon, or any part thereof; and such mortgagee, his heirs, assigns or legal representatives, or any of them, may re-purchase any of the said premises, on any sale thereof made by virtue of any power contained in such mortgage, or by virtue of any judgment or decree of any court of law or equity, rendered in order to enforce the payment of any part of such money, and may hold the same premises, in the like manner, and with the same authority, as the same were originally held by such mortgagor.<sup>8</sup>

On sale of certain lands, aliens may take mortgages, and may re-purchase lands sold in certain cases.

§ 20. Every alien who shall hold any real estate by virtue of any of the foregoing provisions, shall be subject to duties, assessments, taxes and burthens, as if he were a citizen of this state; but shall be incapable of voting at any election, or of being elected or appointed to any office, or of serving on any jury.<sup>9</sup>

Liabilities and incapacities of certain aliens.

## TITLE II.

### OF THE NATURE AND QUALITIES OF ESTATES IN REAL PROPERTY, AND THE ALIENATION THEREOF.

ART. 1.—Of the creation and division of estates.

ART. 2.—Of uses and trusts.

ART. 3.—Of powers.

ART. 4.—Of alienation by deed.

#### ARTICLE FIRST.

#### *Of the Creation and Division of Estates.*

Sec. 1. Enumeration of estates in land.

2. Estates of inheritance, a fee simple, when a fee simple absolute.
- 3 & 4. Estates tail abolished and to be fees simple; remainders thereon, when valid.
5. What to be estates of freehold, chattels real and chattel interests.
6. Estates for life of third person, when freehold, when chattels real.
7. Division of estates into those in possession and those in expectancy.
8. Definition of those estates respectively.
9. Enumeration of estates in expectancy.
10. Definition of a future estate.
11. When a future estate is a remainder.
12. Definition of a reversion.
13. When future estates are vested, when contingent.
14. Certain future estates void: when power of alienation deemed suspended.
15. How long power of alienation may be suspended.
16. In certain case a contingent remainder in fee may be created.
17. Limitation of successive estates for life.
18. Remainders upon estates for life of third person.
19. When remainder to take effect, if estate be for life of more than two persons.
20. Contingent remainder on a term for years.
21. Estates for life, as remainders, on a term for years.

(7) Laws of 1826, p. 348, § 2. (8) 2 R. L. 542, § 2. (9) Laws of 1826, p. 427 § 4.

## TITLE 2. Sec. 22. Meaning of "heirs" and "issue" in certain remainders.



23. Limitations herein prescribed, to apply to chattel interests in lands.
24. Remainders, future and contingent estates, how created.
25. Two or more future estates, in the alternative, may be created.
26. Future estates not to be void on ground of improbability, &c.
27. Remainder upon a contingency ; its effect.
28. Heirs of a tenant for life, when to take as purchasers.
29. Construction of certain remainders.
- 30 & 31. In what cases posthumous children to take, or defeat, future estates.
32. Expectant estates not to be defeated by owners of precedent estate, &c.
33. But such estates may be defeated by means provided by the grantor.
34. Remainder not to be defeated by termination of precedent estate.
35. Expectant estates descendible, devisable and alienable.
36. Limitations on the disposition of future profits of lands.
37. Accumulations of profits of land, how and for whom may be directed.
38. Other directions for accumulation, when void in part, when wholly void.
39. When profits, &c. may be applied to education, &c. of infants.
40. To whom rents and profits of lands, in certain cases to belong.
41. What deemed the time of creation of expectant estates.
42. Expectant estates not herein enumerated, abolished.
43. Nature, &c. of estates in severalty, joint tenancy and in common.
44. What to be deemed estates in common, what in joint tenancy.

Enumeration  
of estates in  
land.

§ 1. Estates in lands are divided into estates of inheritance, estates for life, estates for years, and estates at will and by sufferance.

What estate  
a fee simple.

§ 2. Every estate of inheritance, notwithstanding the abolition of tenures, shall continue to be termed a fee simple, or fee ; and every such estate, when not defeasible or conditional, shall be termed a fee simple absolute, or an absolute fee.

Estates tail  
abolished.  
Their nature  
declared.

§ 3. All estates tail are abolished ; and every estate which would be adjudged a fee tail, according to the law of this state, as it existed previous to the twelfth day of July, one thousand seven hundred and eighty-two, shall hereafter be adjudged a fee simple ; and if no valid remainder be limited thereon, shall be a fee simple absolute.<sup>10</sup>

Certain re-  
mainders  
valid.

§ 4. Where a remainder in fee shall be limited upon any estate, which would be adjudged a fee tail, according to the law of this state, as it existed previous to the time mentioned in the last section, such remainder shall be valid as a contingent limitation upon a fee, and shall vest in possession, on the death of the first taker, without issue living at the time of such death.

Freeholds ;  
chattels real ;  
chattel  
interests.

§ 5. Estates of inheritance and for life, shall continue to be denominated estates of freehold ; estates for years, shall be chattels real ; and estates at will or by sufferance shall be chattel interests, but shall not be liable as such to sale on executions.

Estates for  
life of third  
person when  
freehold, &c.

§ 6. An estate during the life of a third person, whether limited to heirs or otherwise, shall be deemed a freehold only during the life of the grantee or devisee, but after his death it shall be deemed a chattel real.

In possession  
or expectan-  
cy.

§ 7. Estates, as respects the time of their enjoyment, are divided into estates in possession, and estates in expectancy.

§ 8. An estate in possession, is where the owner has an immediate right to the possession of the land. An estate in expectancy, is where the right to the possession is postponed to a future period.

ART. 1.  
Definition of these estates.

§ 9. Estates in expectancy, are divided into,

Enumeration of estates in expectancy.

1. Estates commencing at a future day, denominated future estates: and,
2. Reversions.

§ 10. A future estate, is an estate limited to commence in possession at a future day, either without the intervention of a precedent estate, or on the determination, by lapse of time or otherwise, of a precedent estate, created at the same time.

Future estates.

§ 11. Where a future estate is dependent on a precedent estate, it may be termed a remainder, and may be created and transferred by that name.

When they are remainders.

§ 12. A reversion is the residue of an estate left in the grantor or his heirs, or in the heirs of a testator, commencing in possession on the determination of a particular estate granted or devised.

Reversions.

§ 13. Future estates are either vested or contingent. They are vested, when there is a person in being, who would have an immediate right to the possession of the lands, upon the ceasing of the intermediate or precedent estate. They are contingent, whilst the person to whom, or the event upon which they are limited to take effect, remains uncertain.

Vested and contingent future estates.

§ 14. Every future estate shall be void in its creation, which shall suspend the absolute power of alienation for a longer period than is prescribed in this Article. Such power of alienation is suspended, when there are no persons in being, by whom an absolute fee in possession can be conveyed.

Void future estates.

Suspending power of alienation.

§ 15. The absolute power of alienation, shall not be suspended by any limitation or condition whatever, for a longer period than during the continuance of not more than two lives in being at the creation of the estate, except in the single case mentioned in the next section.

How long it may be suspended.

§ 16. A contingent remainder in fee, may be created on a prior remainder in fee, to take effect in the event that the persons to whom the first remainder is limited, shall die under the age of twenty-one years, or upon any other contingency, by which the estate of such persons may be determined before they attain their full age.

Contingent remainder in fee.

§ 17. Successive estates for life shall not be limited, unless to persons in being at the creation thereof; and where a remainder shall be limited on more than two successive estates for life, all the life estates subsequent to those of the two persons first entitled thereto, shall be void, and upon the death of those persons, the remainder shall

Limitation of successive estates for life.

**TITLE 3** take effect, in the same manner as if no other life estates had been created.

Remainder upon certain estates for life.

§ 18. No remainder shall be created upon an estate for the life of any other person or persons than the grantee or devisee of such estate, unless such remainder be in fee; nor shall a remainder be created upon such an estate in a term for years, unless it be for the whole residue of such term.

When remainder to take effect in certain cases.

§ 19. When a remainder shall be created upon any such life estate, and more than two persons shall be named, as the persons during whose lives the life estate shall continue, the remainder shall take effect upon the death of the two persons first named, in the same manner as if no other lives had been introduced.

Contingent remainder on a term for years.

§ 20. A contingent remainder shall not be created on a term of years, unless the nature of the contingency on which it is limited, be such that the remainder must vest in interest, during the continuance of not more than two lives in being at the creation of such remainder, or upon the termination thereof.

Remainder of estates for life.

§ 21. No estate for life, shall be limited as a remainder on a term of years, except to a person in being, at the creation of such estate.

Meaning of "heirs" and "issue" in certain remainders.

§ 22. Where a remainder shall be limited to take effect on the death of any person without heirs, or heirs of his body, or without issue, the words "heirs" or "issue," shall be construed to mean heirs or issue, living at the death of the person named as ancestor.

Limitations on chattels real.

§ 23. All the provisions contained in this Article, relative to future estates, shall be construed to apply to limitations of chattels real, as well as of freehold estates, so that the absolute ownership of a term of years, shall not be suspended for a longer period than the absolute power of alienation can be suspended, in respect to a fee.

Remainders, future and contingent estates, how created.

§ 24. Subject to the rules established in the preceding sections of this Article, a freehold estate as well as a chattel real, may be created, to commence at a future day; an estate for life may be created, in a term of years, and a remainder limited thereon; a remainder of a freehold or chattel real, either contingent or vested, may be created expectant on the determination of a term of years; and a fee may be limited on a fee, upon a contingency, which, if it should occur, must happen within the period prescribed in this Article.

Two or more future estates

§ 25. Two or more future estates, may also be created, to take effect in the alternative, so that if the first in order shall fail to vest, the next in succession shall be substituted for it, and take effect accordingly.

Certain future estates not to be void.

§ 26. No future estate, otherwise valid, shall be void on the ground of the probability or improbability of the contingency on which it is limited to take effect.



§ 27. A remainder may be limited on a contingency, which, in case it should happen, will operate to abridge or determine the precedent estate; and every such remainder shall be construed a conditional limitation, and shall have the same effect as such a limitation would have by law.

ART. 1.  
Remainder upon a contingency.

§ 28. Where a remainder shall be limited to the heirs, or heirs of the body of a person to whom a life estate, in the same premises, shall be given, the persons who, on the termination of the life estate, shall be the heirs, or heirs of the body of such tenant for life, shall be entitled to take as purchasers, by virtue of the remainder so limited to them.

Heirs of a tenant for life, whom to take as purchasers.

§ 29. When a remainder on an estate for life, or for years, shall not be limited on a contingency defeating or avoiding such precedent estate, it shall be construed as intended to take effect, only on the death of the first taker, or the expiration, by lapse of time, of such term of years.

Construction of certain remainders.

§ 30. Where a future estate shall be limited to heirs or issue, or children, posthumous children shall be entitled to take, in the same manner as if living at the death of their parent.

Posthumous children.

§ 31. A future estate depending on the contingency of the death of any person without heirs or issue, or children, shall be defeated by the birth of a posthumous child of such person, capable of taking by descent.

Id.

§ 32. No expectant estate can be defeated or barred by any alienation, or other act of the owner of the intermediate or precedent estate, nor by any destruction of such precedent estate by disseisin, forfeiture, surrender, merger or otherwise.

Expectant estates not to be defeated &c.

§ 33. The last preceding section shall not be construed to prevent an expectant estate from being defeated in any manner, or by any act or means, which the party creating such estate shall, in the creation thereof, have provided for or authorised; nor shall an expectant estate thus liable to be defeated, be on that ground adjudged void in its creation.

When to be defeated.

§ 34. No remainder, valid in its creation, shall be defeated by the determination of the precedent estate, before the happening of the contingency on which the remainder is limited to take effect; but should such contingency afterwards happen, the remainder shall take effect, in the same manner and to the same extent, as if the precedent estate had continued to the same period.

Remainders not to be defeated in certain cases.

§ 35. Expectant estates are descendible, devisable and alienable, in the same manner as estates in possession.

Qualities of expectant estates.

§ 36. Dispositions of the rents and profits of lands, to accrue and be received at any time subsequent to the execution of the instrument

Future profits of lands.

**TITLE 2.** creating such disposition, shall be governed by the rules established in this Article, in relation to future estates in lands.

Accumulation of profits of lands.

§ 37. An accumulation of rents and profits of real estate, for the benefit of one or more persons, may be directed by any will or deed, sufficient to pass real estate, as follows:

1. If such accumulation be directed to commence on the creation of the estate, out of which the rents and profits are to arise, it must be made for the benefit of one or more minors then in being, and terminate at the expiration of their minority:

2. If such accumulation be directed to commence at any time subsequent to the creation of the estate out of which the rents and profits are to arise, it shall commence within the time in this Article permitted for the vesting of future estates and during the minority of the persons for whose benefit it is directed, and shall terminate at the expiration of such minority.

Other directions, when void in part:

§ 38. If, in either of the cases mentioned in the last section, the direction for such accumulation shall be for a longer term than during the minority of the persons intended to be benefitted thereby, it shall be void as respects the time beyond such minority. And all directions for the accumulation of the rents and profits of real estate, except such as are herein allowed, shall be void.

when wholly void.

Application of profits, &c. to support, &c. of infants

§ 39. Where such rents and profits are directed to be accumulated for the benefit of infants entitled to the expectant estate, and such infants shall be destitute of other sufficient means of support and education, the chancellor, upon the application of their guardian, may direct a suitable sum out of such rents and profits to be applied to their maintenance and education.

In certain cases, who entitled to profits of land.

§ 40. When in consequence of a valid limitation of an expectant estate, there shall be a suspense of the power of alienation or of the ownership, during the continuance of which, the rents and profits shall be undisposed of, and no valid direction for their accumulation is given, such rents and profits shall belong to the persons presumptively entitled to the next eventual estate.

Expectant estates, when deemed created.

§ 41. The delivery of the grant, where an expectant estate is created by grant; and where it is created by devise, the death of the testator, shall be deemed the time of the creation of the estate.

Certain expectant estates abolished.

§ 42. All expectant estates, except such as are enumerated and defined in this Article, are abolished.

Estates in severalty, joint tenancy and in common.

§ 43. Estates, in respect to the number and connexion of their owners, are divided into estates in severalty, in joint tenancy and in common; the nature and properties of which respectively, shall continue to be such as are now established by law, except so far as the same may be modified by the provisions of this Chapter.

§ 44. Every estate granted or devised to two or more persons, in their own right, shall be a tenancy in common, unless expressly declared to be joint tenancy; but every estate, vested in executors or trustees as such, shall be held by them in joint tenancy. This section shall apply as well to estates already created or vested, as to estates hereafter to be granted or devised.<sup>11</sup>

ART. 2.  
What to be in common, what in joint tenancy.

ARTICLE SECOND.

*Of Uses and Trusts.*

- Sec. 45. Uses and trusts, not herein authorised, abolished; estates in land, legal rights.
- 46. Existing executed uses, confirmed as legal estates.
- 47. Persons entitled to possession of lands, declared the legal owners thereof.
- 48. Last section not to affect active trusts.
- 49. No estate granted for the use of another, to vest in the trustees.
- 50. Previous sections not to apply to resulting or implied or express trusts.
- 51. Grant to one, for consideration paid by another, vests title in grantee.
- 52. But trust to result in favor of creditors of person paying consideration.
- 53. Preceding 51st section not to extend to certain cases.
- 54. Purchasers in good faith, not to be affected by implied trusts, &c.
- 55. For what purposes express trusts may be created.
- 56. Certain devises in trust, to be deemed powers.
- 57. In certain cases, profits of land liable to creditors.
- 58. Express trusts not before authorised, to be powers in trust.
- 59. In such case, land to remain in and descend to persons entitled.
- 60. Trustees under valid express trusts, to have whole estate.
- 61. Qualification of last section.
- 62. Estates, &c. not included in express trust, to remain in grantor.
- 63. Powers of parties interested in certain trusts, over them.
- 64. Conveyances not declaring trust, absolute in certain cases.
- 65. Sales, &c. contrary to the trust expressed in instrument, void.
- 66. Misapplication of money received by trustees, not to affect others.
- 67. Estate of trustee to cease, when purpose of trust ceases.
- 68. Disposition of trust, &c. on death of surviving trustee.
- 69. When and how trustee may resign.
- 70. When and how trustee may be removed.
- 71. Appointment of trustees in place of those resigning or removed, &c.
- 72. Three last sections applicable only to express trusts.

§ 45. Uses and trusts, except as authorised and modified in this Article, are abolished; and every estate and interest in lands, shall be deemed a legal right, cognizable as such in the courts of law, except when otherwise provided in this Chapter.

Certain uses and trusts abolished.

§ 46. Every estate which is now held as an use, executed under any former statute of this state, is confirmed as a legal estate.

Executed uses, existing

§ 47. Every person, who, by virtue of any grant, assignment or devise, now is, or hereafter shall be entitled to the actual possession of lands, and the receipt of the rents and profits thereof, in law or in equity, shall be deemed to have a legal estate therein, of the same quality and duration, and subject to the same conditions, as his beneficial interest.<sup>12</sup>

Right to possession of lands creates legal ownership.

§ 48. The last preceding section shall not divest the estate of any trustees, in any existing trust, where the title of such trustees, is not

Active trusts not affected by last section.

(11) 1 R. L. p. 54, § 6 & 7. (12) 1 R. L. p. 72, § 1 2 & 3.

merely intended, but is connected with some power of actual disposition or management, in relation to the lands which are the subject of the trust.

*Trusts of lands by will of testator, and in inter vivos.*  
 § 49. Every disposition of lands, whether by deed or devise hereafter made, shall be directly to the person in whom the right to the possession and profits, shall be intended to be invested, and not to any other, in the use of, or in trust for, such person; and if made to one or more persons, in the use of, or in trust for, another, an estate or interest, legal or equitable, shall vest in the trustee.<sup>13</sup>

*Provision made by will.*  
 § 50. The preceding sections in this Article shall not extend to trusts arising or resulting by implication of law, nor be construed to prevent or affect the creation of such express trusts, as are herein after authorized and defined.

*Grant is void for money paid or consideration.*  
 § 51. Where a grant for a valuable consideration shall be made to one person, and the consideration therefor shall be paid by another, no use or trust shall result in favor of the person by whom such payment shall be made: but the title shall vest in the person named as the alienee in such conveyance, subject only to the provisions of the next section.<sup>14</sup>

*Except for benefit of creditors, &c.*  
 § 52. Every such conveyance shall be presumed fraudulent, as against the creditors, at that time, of the person paying the consideration; and where a fraudulent intent is not disproved, a trust shall result in favor of such creditors, to the extent that may be necessary to satisfy their just demands.<sup>15</sup>

*Section 51 qualified.*  
 § 53. The provisions of the preceding fifty-first section shall not extend to cases, where the alienee named in the conveyance, shall have taken the same as an absolute conveyance, in his own name, without the consent or knowledge of the person paying the consideration, or where such alienee, in violation of some trust, shall have purchased the lands so conveyed, with monies belonging to another person.<sup>14</sup>

*Purchasers protected.*  
 § 54. No implied or resulting trust shall be alleged or established, to defeat or prejudice the title of a purchaser, for a valuable consideration, and without notice of such trust.

*For what purposes express trusts may be created.*  
 § 55. Express trusts may be created, for any or either of the following purposes:

1. To sell lands for the benefit of creditors:
2. To sell, mortgage or lease lands, for the benefit of legatees, or for the purpose of satisfying any charge thereon:
3. To receive the rents and profits of lands, and apply them to the education and support, or either, of any person, during the life of such person, or for any shorter term, subject to the rules prescribed in the first Article of this Title:

4. To receive the rents and profits of lands, and to accumulate the same, for the purposes and within the limits prescribed in the first Article of this Title. ART. 2.

§ 56. A devise of lands to executors or other trustees, to be sold or mortgaged, where the trustees are not also empowered to receive the rents and profits, shall vest no estate in the trustees; but the trust shall be valid as a power, and the lands shall descend to the heirs, or pass to the devisees of the testator, subject to the execution of the power. Certain devisees in trust, to be deemed powers.

§ 57. Where a trust is created to receive the rents and profits of lands, and no valid direction for accumulation is given, the surplus of such rents and profits, beyond the sum that may be necessary for the education and support of the person for whose benefit the trust is created, shall be liable, in equity, to the claims of the creditors of such person, in the same manner as other personal property, which cannot be reached by an execution at law. Profits of land liable to creditors in certain cases.

§ 58. Where an express trust shall be created, for any purpose not enumerated in the preceding sections, no estate shall vest in the trustees; but the trust, if directing or authorising the performance of any act which may be lawfully performed under a power, shall be valid as a power in trust, subject to the provisions in relation to such powers, contained in the third Article of this Title. Other express trusts, to be powers in trust.

§ 59. In every case where the trust shall be valid as a power, the lands to which the trust relates, shall remain in, or descend to the persons otherwise entitled, subject to the execution of the trust as a power. And land, &c to descend to persons entitled.

§ 60. Every express trust, valid, as such, in its creation, except as herein otherwise provided, shall vest the whole estate in the trustees, in law and in equity, subject only to the execution of the trust. The persons for whose benefit the trust is created, shall take no estate or interest in the lands, but may enforce the performance of the trust in equity. Trustees of express trusts to have whole estate.

§ 61. The preceding section shall not prevent any person creating a trust, from declaring to whom the lands to which the trust relates, shall belong, in the event of the failure or termination of the trust; nor shall it prevent him from granting or devising such lands, subject to the execution of the trust. Every such grantee or devisee shall have a legal estate in the lands, as against all persons, except the trustees and those lawfully claiming under them. Last section qualified.

§ 62. Where an express trust is created, every estate and interest not embraced in the trust and not otherwise disposed of, shall remain in, or revert to, the person creating the trust, or his heirs, as a legal estate. Interests remaining in grantee of express trust.

## TITLE 2.

*Powers over trust, of party interested.*

§ 63. No person beneficially interested in a trust for the receipt of the rents and profits of lands, can assign or in any manner dispose of such interest; but the rights and interest of every person for whose benefit a trust for the payment of a sum in gross is created, are assignable.

*Effect of omitting trust in conveyance.*

§ 64. Where an express trust is created, but is not contained or declared in the conveyance to the trustees, such conveyance shall be deemed absolute, as against the subsequent creditors of the trustees, not having notice of the trust, and as against purchasers from such trustees, without notice, and for a valuable consideration.

*Certain sales, &c. by trustees, void.*

§ 65. Where the trust shall be expressed in the instrument creating the estate, every sale, conveyance or other act of the trustees, in contravention of the trust, shall be absolutely void.

*Others not to be affected by misconduct of trustees.*

§ 66. No person who shall actually and in good faith pay a sum of money to a trustee, which the trustee as such is authorised to receive, shall be responsible for the proper application of such money, according to the trust; nor shall any right or title, derived by him from such trustee, in consideration of such payment, be impeached or called in question, in consequence of any misapplication, by the trustee, of the monies paid.

*When estate of trustee to cease.*

§ 67. When the purposes for which an express trust shall have been created, shall have ceased, the estate of the trustees shall also cease.

*Trust estate not to descend, &c.*

*Trust to vest in chancery, &c.*

§ 68. Upon the death of the surviving trustee of an express trust, the trust estate shall not descend to his heirs, nor pass to his personal representatives; but the trust, if then unexecuted, shall vest in the court of chancery, with all the powers and duties of the original trustee, and shall be executed by some person appointed for that purpose, under the direction of the court.

*When and how trustee may resign.*

§ 69. Upon the petition of any trustee, the court of chancery may accept his resignation, and discharge him from the trust, under such regulations as shall be established by the court for that purpose, and upon such terms, as the rights and interests of the persons interested in the execution of the trust, may require.

*When and how trustee may be removed.*

§ 70. Upon the petition or bill of any person interested in the execution of a trust, and under such regulations as for that purpose shall be established, the court of chancery may remove any trustee who shall have violated or threatened to violate his trust, or who shall be insolvent, or whose insolvency shall be apprehended, or who, for any other cause, shall be deemed an unsuitable person to execute the trust.

*How places supplied.*

§ 71. The chancellor shall have full power to appoint a new trustee, in place of a trustee resigned or removed; and when, in consequence of such resignation or removal, there shall be no acting trustee,

tee, the court, in its discretion, may appoint new trustees, or cause the trust to be executed by one of its officers, under its direction.

ART. 3

§ 72. The three last sections shall extend only to cases of express trusts.

Application of three last sections.

ARTICLE THIRD.

*Of Powers.*

- Sec. 73. Powers as they now exist abolished; future powers to be governed by this Article.
74. Definition of a power.
75. Who capable of granting powers.
76. Division of powers, general or special, and beneficial or in trust.
- 77 & 78. Definitions of general and special powers.
79. When a general or special power is beneficial.
80. Married women may execute general and beneficial powers.
81. Absolute power of disposition in tenant for life, &c. creates a fee, &c.
82. Like power to any other, creates absolute fee as to creditors, &c.
83. When grantee of such power entitled to absolute fee.
84. Power to devise inheritance to be deemed absolute power in certain cases.
85. Power to dispose of fee in certain cases, absolute power of disposition.
86. Effect of reserving power of revocation.
87. To whom special and beneficial powers may be granted.
88. Power of tenant for life to make leases, not assignable, &c.
89. To whom it may be released.
- 90 & 91. Effect of mortgages by persons having power to make leases.
92. Future beneficial powers not herein enumerated, invalid.
93. Liability of beneficial powers in equity, to creditors.
94. When general powers are in trust.
95. When special powers are in trust.
96. Trust powers imperative, unless expressly made optional.
97. Effect of a right of selection by grantee of power.
- 98 & 99. Powers to distribute among several persons, how to be construed.
100. Chancery to execute power on death of trustee having right of selection.
101. Also where person to execute power is not designated.
102. Certain prior sections to apply to power in trust.
103. Creditors, &c. of objects of trust, when to compel execution of powers.
104. Effect of assignments under insolvent acts, &c. upon beneficial powers.
105. Powers that may be reserved by grantors in conveyances.
106. By what instruments powers may be granted.
107. When powers to be recorded.
108. Powers irrevocable unless authority is expressly reserved.
109. In whom powers may be vested; by whom exercised.
110. Married women, when and how to execute powers.
111. Married women not to execute power until of age.
112. Powers to be executed by all surviving grantors thereof.
113. By what instruments powers to be executed.
114. Such instruments to be deemed conveyances.
115. Power to dispose by devise, how executed.
116. Power to dispose by grant, cannot be executed by will.
117. Executions by married women, to be acknowledged.
118. Execution governed by preceding rules, although otherwise directed by grantor.
119. Useless formalities directed, dispensed with.
120. Nominal conditions may be disregarded.
121. In other respects, directions of grantor to be observed.
122. Consent of third persons to execution of power, how evidenced.
123. Dispositions not void on account of being too extensive.
124. Instruments executing power valid, although power not recited.
125. Such instruments affected by fraud.
126. General terms in a will sufficient to execute power to devise.
127. Estates given to descendants by virtue of certain powers, to be advancements.
128. How term during which alienation may be suspended, to be computed.
129. Who capable of taking in execution of power.
130. Authority of married women, under powers.

TITLE 2. SEC. 131. Defective executions of powers, corrected in equity.

132. Relief to purchasers under defective executions.

133. Powers to sell in mortgages, to pass to assignees thereof.

134. This Article not to extend to simple powers of attorney, &c.

135. Definition of the terms "grantor of a power" and "grantee of a power."

Powers as they now exist abolished. Future powers.

§ 73. Powers, as they now exist by law, are abolished; and from the time this Chapter shall be in force, the creation, construction and execution of powers, shall be governed by the provisions of this Article.

Definition of a power.

§ 74. A power is an authority to do some act in relation to lands, or the creation of estates therein, or of charges thereon, which the owner granting or reserving such power, might himself lawfully perform.

Who may grant powers.

§ 75. No person is capable in law of granting a power, who is not at the same time, capable of aliening some interest in the lands to which the power relates.

Division of powers.

§ 76. Powers, as authorised in this Article, are general or special, and beneficial or in trust.

Definition of general powers.

§ 77. A power is general, where it authorises the alienation in fee, by means of a conveyance, will or charge of the lands embraced in the power, to any alienee whatever.

Definition of special powers.

§ 78. A power is special,

1. Where the persons or class of persons, to whom the disposition of the lands under the power is to be made, are designated :

2. Where the power authorises the alienation, by means of a conveyance, will or charge, of a particular estate or interest less than a fee.

Beneficial powers.

§ 79. A general or special power is beneficial, when no person other than the grantee has, by the terms of its creation, any interest in its execution.

Powers to married women.

§ 80. A general and beneficial power may be given to a married woman, to dispose, during her marriage, and without the concurrence of her husband, of lands conveyed or devised to her in fee.

Estate of tenant for life, &c. when changed into a fee.

§ 81. Where an absolute power of disposition, not accompanied by any trust, shall be given to the owner of a particular estate, for life or years, such estate shall be changed into a fee, absolute in respect to the rights of creditors and purchasers, but subject to any future estates limited thereon, in case the power should not be executed, or the lands should not be sold for the satisfaction of debts.

Certain powers create a fee, &c.

§ 82. Where a like power of disposition shall be given to any person to whom no particular estate is limited, such person shall also take a fee, subject to any future estates that may be limited thereon, but absolute, in respect to creditors and purchasers.



§ 83. In all cases, where such power of disposition is given, and no remainder is limited on the estate of the grantee of the power, such grantee shall be entitled to an absolute fee. ART. 3. lb.

§ 84. Where a general and beneficial power, to devise the inheritance, shall be given to a tenant for life or for years, such tenant shall be deemed to possess an absolute power of disposition, within the meaning and subject to the provisions of the three last preceding sections. Effect of power to devise inheritance in certain cases.

§ 85. Every power of disposition shall be deemed absolute, by means of which the grantee is enabled, in his life time, to dispose of the entire fee, for his own benefit. Power to dispose of fee.

§ 86. Where the grantor in any conveyance shall reserve to himself, for his own benefit, an absolute power of revocation, such grantor shall still be deemed the absolute owner of the estate conveyed, so far as the rights of creditors and purchasers are concerned. Power to revoke.

§ 87. A special and beneficial power may be granted,  
 1. To a married woman, to dispose, during the marriage, and without the concurrence of her husband, of any estate less than a fee, belonging to her, in the lands to which the power relates : Special and beneficial powers, who may take.  
 2. To a tenant for life of the lands embraced in the power, to make leases for not more than twenty-one years, and to commence in possession during his life.

§ 88. The power of a tenant for life to make leases, is not assignable as a separate interest, but is annexed to his estate, and will pass, (unless specially excepted) by any conveyance of such estate. If specially excepted in any such conveyance, it is extinguished. Power to make leases by tenant for life.

§ 89. Such power may be released by the tenant to any person entitled to an expectant estate in the lands, and shall thereupon be extinguished. Release of such power.

§ 90. A mortgage executed by a tenant for life having a power to make leases, or by a married woman, by virtue of any beneficial power, does not extinguish or suspend the power ; but the power is bound by the mortgage, in the same manner as the lands embraced therein. Mortgages by party having power to lease, &c.

§ 91. The effects of such a lien by mortgage on the power, are,  
 1. That the mortgage is entitled, in equity, to an execution of the power, so far as the satisfaction of his debt may require : Effect thereof.  
 2. That any subsequent estate created by the owner, in execution of the power, becomes subject to the mortgage, in the same manner as if in terms embraced therein.

§ 92. No beneficial power, general or special, hereafter to be created, other than such as are already enumerated and defined in this Article, shall be valid. Future beneficial powers.

**Section 99.** **§ 99.** Every special and particular power is limited, in equity, to the objects or conditions, in the same manner as other interests that cannot be reached by an execution at law, and the execution of the power may be decreed for the benefit of the conditions entitled.

**Section 100.** **§ 100.** A general power is a trust, when any person or class of persons, other than the grantee of such power, is designated as entitled to the proceeds, or any portion of the proceeds, or other benefits to result from the alienation of the lands, according to the power.

**Section 101.** **§ 101.** A special power is a trust.

When the disposition, which a testator, is limited to be made to any person or class of persons, other than the grantee of such power, entitled to the proceeds or any portion of the proceeds, or other benefits to result from the execution of the power:

1. When any person or class of persons, other than the grantee, is designated as entitled to any benefit from the disposition or charge authorized by the power.

**Section 102.** **§ 102.** Every trust power, unless its execution or non-execution is made expressly to depend on the will of the grantee, is imperative, and imposes a duty on the grantee, the performance of which may be compelled in equity, for the benefit of the parties interested.

**Section 103.** **§ 103.** A trust power does not cease to be imperative, where the grantee has the right to select any, and exclude others of the persons designated as the objects of the trust.

**Section 104.** **§ 104.** Where a disposition under a power is directed to be made to, or among or between several persons, without any specification of the share or sum to be allotted to each, all the persons designated, shall be entitled to an equal proportion.

**Section 105.** **§ 105.** But when the terms of the power import that the estate or fund is to be distributed between the persons so designated, in such manner or proportions as the trustee of the power may think proper, the trustee may give the whole to any one or more of such persons, in exclusion of the other.

**Section 106.** **§ 106.** If the trustee of a power, with the right of selection, shall die, leaving the power unexecuted, its execution shall be decreed in equity for the benefit equally of all the persons designated, as objects of the trust.

**Section 107.** **§ 107.** Where a power in trust is created by will, and the testator has omitted to designate by whom the power is to be exercised, its execution shall devolve on the court of chancery.

**Section 108.** **§ 108.** The provisions contained in the second Article of this Title, from section sixty-six to section seventy-one, both inclusive, in relation to express trusts and trustees, shall apply equally to powers in trust, and the grantees of such powers.

§ 103. The execution in whole or in part, of any trust power, may be decreed in equity, for the benefit of the creditors or assignees of any person entitled as one of the objects of the trust, to compel its execution, when the interest of the objects of such trust is assignable.

ART. 3.  
Execution of trust power when compelled by creditors, &c.

§ 104. Every beneficial power, and the interest of every person entitled to compel the execution of a trust power, shall pass to the assignees of the estate and effects of the person in whom such power or interest is vested, under any assignment authorised by the provisions of the fifth Chapter of this Act.

Beneficial powers, &c. how affected by insolvent assignments, &c.

§ 105. The grantor in any conveyance, may reserve to himself any power, beneficial or in trust, which he might lawfully grant to another; and every power thus reserved, shall be subject to the provisions of this Article, in the same manner as if granted to another.

Reservation of powers in conveyances.

§ 106. A power may be granted,

How powers to be granted.

1. By a suitable clause contained in a conveyance of some estate in the lands, to which the power relates :
2. By a devise contained in a last will and testament.

§ 107. Every power shall be a lien or charge upon the lands which it embraces, as against creditors and purchasers in good faith and without notice, of or from any person having an estate in such lands, only from the time the instrument containing the power shall be duly recorded. As against all other persons, the power shall be a lien from the time the instrument in which it is contained, shall take effect.

When powers to be recorded.

§ 108. Every power, beneficial or in trust, is irrevocable, unless an authority to revoke it, is granted or reserved in the instrument creating the power.

When powers irrevocable.

§ 109. A power may be vested in any person capable in law of holding, but cannot be exercised by any person not capable, of alienating lands, except in the single case mentioned in the next section.

Who to execute powers.

§ 110. A married woman may execute a power during her marriage, by grant or devise, as may be authorised by the power, without the concurrence of her husband, unless by the terms of the power its execution by her, during marriage, is expressly or impliedly prohibited.

Married women.

§ 111. No power vested in a married woman, during her infancy, can be exercised by her, until she attains her full age.

Ib.

§ 112. Where a power is vested in several persons, all must unite in its execution; but if previous to such execution, one or more of such persons shall die, the power may be executed by the survivor or survivors.

Execution by survivors, &c.

§ 113. No power can be executed except by some instrument in writing, which would be sufficient in law to pass the estate or inter-

How executed.

## TITLE 2



est intended to pass under the power, if the person executing the power were the actual owner.

Instruments deemed conveyances.

§ 114. Every instrument, except a will, in execution of a power, and although the power may be a power of revocation only, shall be deemed a conveyance within the meaning, and subject to the provisions, of the third Chapter of this Act.

Execution of power to dispose by devise.

§ 115. Where a power to dispose of lands is confined to a disposition by devise or will, the instrument of execution must be a will duly executed, according to the provisions of the sixth Chapter of this Act.

Ib. to dispose by grant.

§ 116. Where a power is confined to a disposition by grant, it cannot be executed by will, although the disposition is not intended to take effect until after the death of the party executing the power.

Married women to acknowledge executions.

§ 117. If a married woman execute a power by grant, the concurrence of her husband, as a party, shall not be requisite, but the grant shall not be a valid execution of the power, unless it be acknowledged by her on a private examination, in the manner prescribed in the third Chapter of this Act, in relation to conveyances by married women.

Directions by grantor.

§ 118. Where the grantor of a power shall have directed or authorised it to be executed by an instrument not sufficient in law to pass the estate, the power shall not be void, but its execution shall be governed by the rules before prescribed in this Article.

Ib.

§ 119. When the grantor shall have directed any formalities to be observed in the execution of the power, in addition to those which would be sufficient by law to pass the estate, the observance of such additional formalities shall not be necessary to a valid execution of the power.

Nominal conditions.

§ 120. Where the conditions annexed to a power are merely nominal, and evince no intention of actual benefit to the party to whom, or in whose favor, they are to be performed, they may be wholly disregarded in the execution of the power.

When directions of grantor to be observed.

§ 121. With the exceptions contained in the preceding sections, the intentions of the grantor of a power, as to the mode, time and conditions of its execution, shall be observed, subject to the power of the court of chancery, to supply a defective execution, in the cases herein after provided.

Consent of third persons to execution of power.

§ 122. When the consent of a third person to the execution of a power is requisite, such consent shall be expressed in the instrument by which the power is executed, or shall be certified in writing thereon. In the first case, the instrument of execution, in the second, the certificate, shall be signed by the party whose consent is required; and to entitle the instrument to be recorded, such signature must be duly proved or acknowledged, in the same manner as if subscribed to a conveyance of lands.

§ 123. No disposition, by virtue of a power, shall be void in law or in equity, on the ground that it is more extensive than was authorised by the power ; but every estate or interest so created, so far as embraced by the terms of the power, shall be valid.

ART. 3.  
Certain dispositions, not void.

§ 124. Every instrument executed by the grantee of a power, conveying an estate or creating a charge, which such grantee would have no right to convey or create, unless by virtue of his power, shall be deemed a valid execution of the power, although such power be not recited or referred to therein.

Omission to recite power.

§ 125. Instruments in execution of a power are affected by fraud, both in law and equity, in the same manner as conveyances by owners or trustees.

Fraud.

§ 126. Lands embraced in a power to devise, shall pass by a will purporting to convey all the real property of the testator, unless the intent that the will shall not operate as an execution of the power, shall appear, expressly or by necessary implication.

Power to devise, how executed by terms of will.

§ 127. Every estate or interest given by a parent to a descendant, by virtue of a beneficial power, or of a power in trust with a right of selection, shall be deemed an advancement to such descendant, within the provisions of the second Chapter of this Act.

Certain estates to be advancements.

§ 128. The period during which the absolute right of alienation may be suspended, by any instrument in execution of a power, shall be computed, not from the date of such instrument, but from the time of the creation of the power.

Computation of term of suspension.

§ 129. No estate or interest can be given or limited to any person, by an instrument in execution of a power, which such person would not have been capable of taking, under the instrument by which the power was granted.

Who may take under powers.

§ 130. When a married woman, entitled to an estate in fee, shall be authorised by a power, to dispose of such estate during her marriage, she may, by virtue of such power, create any estate, which she might create if unmarried.

Married women, their authority, &c.

§ 131. Where the execution of a power in trust shall be defective, in whole or in part, under the provisions of this Article, its proper execution may be decreed, in equity, in favor of the persons designated as the objects of the trust.

Defective executions.

§ 132. Purchasers for a valuable consideration, claiming under a defective execution of any power, shall be entitled to the same relief in equity, as similar purchasers, claiming under a defective conveyance from an actual owner.

§ 133. Where a power to sell lands, shall be given to the grantee, in any mortgage or other conveyance intended to secure the payment of money, the power shall be deemed a part of the security, and shall

Powers to sell in mortgages.

**TITLE 2** vest in, and may be executed by any person, who, by assignment or otherwise, shall become entitled to the money so secured to be paid.

Application of this article.

§ 134. The provisions of this Article shall not extend to a simple power of attorney, to convey lands in the name, and for the benefit, of the owner.

Terms "grantor of a power," and "grantee of a power" defined.

§ 135. The term "grantor of a power," is used in this Article, as designating the person by whom a power is created, whether by grant or devise; and the term "grantee of a power," is used as designating the person in whom a power is vested, whether by grant, devise or reservation.

#### ARTICLE FOURTH.

##### *Of Alienation by Deed.*

- SEC. 136. Feoffment with livery of seisin, abolished.  
 137. Grants in fee or of freeholds, how executed; when to take effect.  
 138. Delivery essential to grants.  
 139. Covenants not implied in mortgages; remedy of mortgagee.  
 140. No covenants to be implied in conveyances of real estate.  
 141. Lineal and collateral warranties abolished; liability of heirs, &c.  
 142. Deeds of bargain and sale, and of lease and release, deemed grants.  
 143. No greater estate to pass by a conveyance, than such as grantor had.  
 144. Grants conclusive against certain purchasers.  
 145. Conveyances of greater estate by tenant for life or for years.  
 146. Conveyances of lands occupied, when valid without attornment.  
 147. Grant of lands possessed by claimant under adverse title, void.  
 148. But mortgages of such lands may be given; effect thereof.

Livery of seisin.

§ 136. The mode of conveying lands by feoffment with livery of seisin, is abolished.

Grants in fee or of freeholds, how executed; when to take effect.

§ 137. Every grant in fee or of a freehold estate, shall be subscribed and sealed by the person from whom the estate or interest conveyed is intended to pass, or his lawful agent; if not duly acknowledged, previous to its delivery, according to the provisions of the third Chapter of this Act, its execution and delivery shall be attested by at least one witness; or if not so attested, it shall not take effect as against a purchaser or incumbrancer, until so acknowledged.

Delivery.

§ 138. A grant shall take effect, so as to vest the estate or interest intended to be conveyed, only from its delivery; and all the rules of law now in force in respect to the delivery of deeds, shall apply to grants hereafter to be executed.

Covenants in mortgages. Remedies of mortgagee.

§ 139. No mortgage shall be construed as implying a covenant for the payment of the sum intended to be secured; and where there shall be no express covenant for such payment, contained in the mortgage, and no bond or other separate instrument to secure such payment, shall have been given, the remedies of the mortgagee shall be confined to the lands mentioned in the mortgage.

Covenants in conveyances.

§ 140. No covenant shall be implied in any conveyance of real estate, whether such conveyance contain special covenants or not.

§ 141. Lineal and collateral warranties, with all their incidents, are abolished; but the heirs and devisees of every person who shall have made any covenant or agreement, shall be answerable upon such covenant or agreement, to the extent of the lands descended or devised to them, in the cases and in the manner prescribed by law.<sup>15</sup>

ART. 4.  
Lineal and collateral warranties.

§ 142. Deeds of bargain and sale, and of lease and release, may continue to be used, and shall be deemed grants; and as such, shall be subject to all the provisions of this Chapter, concerning grants.

Certain deeds declared grants.

§ 143. No greater estate or interest shall be construed to pass by any grant or conveyance, hereafter executed, than the grantor himself possessed at the delivery of the deed, or could then lawfully convey, except that every grant shall be conclusive as against the grantor and his heirs claiming from him by descent.

Effect of certain conveyances.

§ 144. Every grant shall also be conclusive as against subsequent purchasers from such grantor, or from his heirs claiming as such, except a subsequent purchaser, in good faith and for a valuable consideration, who shall acquire a superior title by a conveyance that shall have been first duly recorded.

How far conclusive on purchasers.

§ 145. A conveyance made by a tenant for life or years of a greater estate than he possessed or could lawfully convey, shall not work a forfeiture of his estate, but shall pass to the grantee all the title, estate or interest, which such tenant could lawfully convey.

Conveyances by tenants for life or for years.

§ 146. Where any lands or tenements shall be occupied by a tenant, a conveyance thereof, or of the rents or profits, or of any other interest therein, by the landlord of such tenant, shall be valid without any attornment of such tenant to the grantee; but the payment of rent to such grantor, by his tenant, before notice of the grant, shall be binding upon such grantee; and such tenant shall not be liable to such grantee for any breach of the condition of the demise, until he shall have had notice of such grant.<sup>16</sup>

Attornment by tenant, when unnecessary.

Liabilities of tenant.

§ 147. Every grant of lands shall be absolutely void, if at the time of the delivery thereof, such lands shall be in the actual possession of a person claiming under a title adverse to that of the grantor.<sup>17</sup>

Conveyance of land adversely possessed.

§ 148. But every person having a just title to lands, of which there shall be an adverse possession, may execute a mortgage on such lands; and such mortgage, if duly recorded, shall bind the lands from the time the possession thereof shall be recovered, by the mortgagor or his representatives. And every such mortgage shall have preference over any judgment or other instrument, subsequent to the recording thereof; and if there be two or more such mortgages, they shall severally have preference according to the time of recording the same respectively.

Mortgages may be given

Effect thereof

Priority of lien.

(15) 1 R. L. p. 526, § 26. (16) Ib. § 26. (17) Ib. p. 173, § 8.

## TITLE 3.

## TITLE III.

## OF ESTATES IN DOWER.

- Sec. 1. Of what widows shall be endowed.**
2. Widows of aliens, if inhabitants, entitled to dower.
  3. Dower in case of exchange of lands.
  4. Dower in lands mortgaged before marriage.
  5. In lands mortgaged for purchase money.
  6. Claim to one-third of surplus proceeds of sale, in such case.
  7. Widow of mortgagee not entitled to dower.
  8. Dower forfeited by divorce for her misconduct.
  9. Settlements by jointure, with her assent, to bar dower.
  10. How her assent to jointure to be evidenced.
  11. Pecuniary provision in lieu of dower, when to bar it.
  12. If jointure, &c. made without her assent, she to elect.
  13. If provision in lieu of dower be made by will, to elect.
  14. Deemed to have elected, unless she enter or sue, within a year.
  15. Jointures, &c. in lieu of dower, forfeited in same cases as dower.
  16. Acts of husband, judgments, &c. not to affect right to dower, &c.
  17. Widow entitled to remain in husband's house 40 days.
  18. Widow to demand her dower within 20 years after husband's death; exceptions.
  19. When entitled to damages, on recovering dower.
  20. Measure of such damages in different cases.
  21. Not to be estimated on certain improvements.
  22. Damages against heir for land aliened by him.
  23. Assignment of dower in satisfaction, to bar further claim.
  24. Infant heirs not to be prejudiced by a collusive recovery of dower.
  25. Widow may bequeath crops growing in her dower-land.

Dower of  
widows.

§ 1. A widow shall be endowed of the third part of all the lands, whereof her husband was seised of an estate of inheritance, at any time during the marriage.<sup>18</sup>

Widows of  
aliens.

§ 2. The widow of any alien, who, at the time of his death, shall be entitled by law to hold any real estate, if she be an inhabitant of this state, at the time of such death, shall be entitled to dower, of such estate, in the same manner as if such alien had been a native citizen.

Dower in  
case of ex-  
change of  
lands.

§ 3. If a husband, seised of an estate of inheritance in lands, exchanges them for other lands, his widow shall not have dower of both, but shall make her election, to be endowed of the lands given, or of those taken, in exchange; and if such election be not evinced by the commencement of proceedings to recover her dower of the lands given in exchange, within one year after the death of her husband, she shall be deemed to have elected to take her dower of the lands received in exchange.

Lands mort-  
gaged before  
marriage.

§ 4. Where a person seised of an estate of inheritance in lands, shall have executed a mortgage of such estate, before marriage, his widow shall nevertheless be entitled to dower out of the lands mortgaged, as against every person except the mortgagee and those claiming under him.

In lands  
mortgaged  
for purchase  
money.

§ 5. Where a husband shall purchase lands during coverture, and shall at the same time mortgage his estate in such lands to secure the



payment of the purchase money, his widow shall not be entitled to dower out of such lands, as against the mortgagee or those claiming under him, although she shall not have united in such mortgage, but she shall be entitled to her dower as against all other persons. TITLE 3.

§ 6. Where, in such case, the mortgagee, or those claiming under him, shall, after the death of the husband of such widow, cause the land mortgaged to be sold, either under a power of sale contained in the mortgage, or by virtue of the decree of a court of equity, and any surplus shall remain, after payment of the monies due on such mortgage and the costs and charges of the sale, such widow shall nevertheless be entitled to the interest or income of the one-third part of such surplus, for her life, as her dower. In such case, extent of claim to surplus proceeds of sale.

§ 7. A widow shall not be endowed of lands conveyed to her husband by way of mortgage, unless he acquire an absolute estate therein, during the marriage. Widow of mortgagee.

§ 8. In case of divorce, dissolving the marriage contract, for the misconduct of the wife, she shall not be endowed.<sup>19</sup> When dower forfeited.

§ 9. Whenever an estate in lands shall be conveyed to a person and his intended wife, or to such intended wife alone, or to any person in trust for such person and his intended wife, or in trust for such wife alone, for the purpose of creating a jointure for such intended wife, and with her assent, such jointure shall be a bar to any right or claim of dower of such wife, in any lands of the husband.<sup>20</sup> When barred by jointure.

§ 10. The assent of the wife to such jointure shall be evidenced, if she be of full age, by her becoming a party to the conveyance by which it shall be settled; if she be an infant, by her joining with her father or guardian in such conveyance. Evidence of her assent.

§ 11. Any pecuniary provision that shall be made for the benefit of an intended wife and in lieu of dower, shall, if assented to by such intended wife, as above provided, be a bar to any right or claim of dower of such wife in all the lands of her husband. When dower barred by pecuniary provision.

§ 12. If before her coverture, but without her assent, or if after her coverture, lands shall be given or assured for the jointure of a wife, or a pecuniary provision be made for her, in lieu of dower, she shall make her election whether she will take such jointure or pecuniary provision, or whether she will be endowed of the lands of her husband, but she shall not be entitled to both.<sup>20</sup> When to elect between jointure, &c. and dower.

§ 13. If lands be devised to a woman, or a pecuniary or other provision be made for her by will, in lieu of her dower, she shall make her election whether she will take the lands so devised, or the provision so made, or whether she will be endowed of the lands of her husband. When between devise, &c. and dower.

(19) 1 R. L. p. 53, § 7, and 2 R. L. p. 196, § 8. (20) 1 R. L. p. 58 & 59, § 8 & 9.

## TITLE 3.

When deemed to have elected.

§ 14. When a woman shall be entitled to an election, under either of the two last sections, she shall be deemed to have elected to take such jointure, devise or pecuniary provision, unless within one year after the death of her husband she shall enter on the lands to be assigned to her for her dower, or commence proceedings for the recovery or assignment thereof.

When jointure, &c. forfeited.

§ 15. Every jointure, devise and every pecuniary provision in lieu of dower, shall be forfeited by the woman for whose benefit it shall be made, in the same cases in which she would forfeit her dower; and upon such forfeiture, any estate so conveyed for jointure, and every pecuniary provision so made, shall immediately vest in the person or his legal representatives, in whom they would have vested on the determination of her interest therein, by the death of such woman.

Right to dower, &c. not affected by acts of husband, nor by judgments, &c. against him.

§ 16. No act, deed or conveyance, executed or performed by the husband, without the assent of his wife, evidenced by her acknowledgment thereof, in the manner required by law to pass the estates of married women, and no judgment or decree confessed by or recovered against him, and no laches, default, covin or crime of the husband, shall prejudice the right of his wife to her dower or jointure, or preclude her from the recovery thereof, if otherwise entitled thereto.<sup>21</sup>

May remain in husband's house 40 days

§ 17. A widow may tarry in the chief house of her husband, forty days after his death, whether her dower be sooner assigned to her or not, without being liable to any rent for the same, and in the mean time she shall have her reasonable sustenance out of the estate of her husband.<sup>22</sup>

Dower to be demanded within 30 years, &c.

§ 18. A widow shall demand her dower within twenty years after the death of her husband; but if, at the time of such death, she be under the age of twenty-one years, or insane, or imprisoned on a criminal charge or conviction, the time during which such disability continues, shall not form any part of the said term of twenty years.<sup>23</sup>

When to recover damages.

§ 19. Whenever in any action brought for the purpose, a widow shall recover her dower in lands of which her husband shall have died seised, she shall be entitled also to recover damages for the withholding of such dower.<sup>24</sup>

Measure of damages; against heir;

against others.

§ 20. Such damages shall be one-third part of the annual value of the mesne profits of the lands, in which she shall so recover her dower, to be estimated in a suit against the heirs of her husband, from the time of his death; and in suits against other persons, from the time of her demanding her dower of such persons; and in all cases to be estimated to the time of recovering judgment for such damages, but not to exceed six years in the whole, in any case.

(21) 1 R. L. p. 57 & 59, § 4 & 10. (22) *Ib.* § 1. (23) *Ib.* p. 60, § 1. (24) *Ib.* p. 57, § 2.

§ 21. Such damages shall not be estimated for the use of any permanent improvements made after the death of her husband, by his heirs, or by any other person claiming title to such lands.<sup>25</sup>

TITLE 4.  
Not on im-  
provements.

§ 22. Where a widow shall recover her dower in any lands aliened by the heir of her husband, she shall be entitled to recover of such heir, in an action on the case, her damages for withholding such dower, from the time of the death of her husband to the time of such alienation by the heir, not exceeding six years in the whole; and the amount recovered from such heir, shall be deducted from the amount she would otherwise be entitled to recover from such grantee, and also any amount recovered as damages from such grantee, shall be deducted from the sum she would otherwise be entitled to recover from such heir.

Damages  
against heirs  
aliening land.

to be deduct-  
ed, &c.

§ 23. Where the widow shall have accepted an assignment of dower, in satisfaction of her claim upon all the lands of her husband, it may be pleaded in bar of any further claim of dower, by the heir of such husband, or any grantee of such heir, or any grantee of such husband.

Claim when  
barred by as-  
signment of  
dower.

§ 24. Where a widow not having right to dower, shall, during the the infancy of the heirs of the husband, or any of them, in any suit, commenced either by the widow or by the guardian of any heir, or upon any application to the supreme court, court of common pleas, or surrogate, recover by the default or collusion of such guardian, such infant heir shall not be prejudiced thereby, but when he comes of full age, he shall have an action against such widow, to recover the lands so wrongfully awarded for dower.<sup>26</sup>

Collusive re-  
covery not to  
prejudice in-  
fant heirs.

§ 25. A widow may bequeath the crop in the ground of the land holden by her in dower.<sup>27</sup>

May be-  
queath crops.

## TITLE IV.

### OF ESTATES FOR YEARS, AND AT WILL; AND THE RIGHTS AND DUTIES OF LANDLORDS AND TENANTS.

- Sec. 1. Construction of certain agreements for use of lands, &c. in New-York.  
 2. Effect of new lease, after surrender of former lease.  
 3. Attornments by tenants void, except in certain cases.  
 4, 5 & 6. Remedy in equity against land held under contract for purchase.  
 7. Tenancy at will or by sufferance, may be terminated by notice.  
 8. How notice to be served.  
 9. Rights of landlord on expiration of notice.  
 10. Penalty on tenant for not yielding possession after giving notice.  
 11. Penalty on tenants, &c. for holding over after notice to quit.  
 12. Landlord may notify officer levying execution, of rent due him.  
 13. Officer to collect rent due and pay it to landlord, unless bond be given.  
 14. Rent to be first satisfied from money collected.  
 15. Levying of rent prevented by bond; its penalty and condition.

(25) 1 R. L. p. 60, § 1. (26) Ib. p. 57, § 5 & 6. (27) Ib. p. 368, § 17.

**TITLE 4.** Sec. 16. Duty of officer holding the execution, upon bond being given.



17. Penalty on landlord for collecting more rent than is due.
18. Right to distrain for rents or services, declared.
19. Remedy by action for rent due on leases for life.
20. Rents dependent on life of another, how recovered after his death.
21. Remedy of executors, &c. for arrears of rent.
22. Rights of executors, &c. of tenant for life having rent due.
23. Rights of grantors, assignees, &c. of lessor of demised lands.
24. Rights of lessors and their assignees, &c.
25. Two last sections to extend to leases in fee, for life or for years.
26. When landlord may recover for use and occupation.
27. Penalty on tenant for not delivering process, notices, &c. served on him.

Duration of certain agreements in New-York.

§ 1. Agreements for the occupation of lands or tenements, in the city of New-York, which shall not particularly specify the duration of such occupation, shall be deemed valid until the first day of May next after the possession under such agreement shall commence, and the rent under such agreement shall be payable at the usual quarter days for the payment of rent in the said city, unless otherwise expressed in the agreement.<sup>28</sup>

Effect of new lease after surrender of former lease.

§ 2. If any lease be surrendered in order to be renewed, and a new lease be made by the chief landlord, such new lease shall be good and valid to all intents and purposes, without a surrender of all or any of the under leases derived out of such original lease so surrendered; and the chief landlord, his lessee, and the holders of such under leases, shall enjoy all their rights and interests, in the same manner and to the same extent, as if the original lease had been still continued; and the chief landlord shall have the same remedy by distress, or entry upon the demised premises for the rents and duties secured by such new lease, so far as the same do not exceed the rents and duties reserved in the original lease so surrendered.<sup>29</sup>

Attornment by tenants.

§ 3. The attornment of a tenant to a stranger shall be absolutely void, and shall not in any wise affect the possession of his landlord, unless it be made,

1. With the consent of the landlord: or,
2. Pursuant to, or in consequence of, a judgment at law, or the order or decree of a court of equity: or,
3. To a mortgagee after the mortgage has become forfeited.<sup>29</sup>

Remedy in equity against land held under contract for purchase.

§ 4. The interest of any person holding a contract for the purchase of lands, shall not be bound by the docketing of any judgment or decree, nor be sold by execution upon any such judgment or decree; but whenever an execution against the property of such person shall have been issued, on a judgment or decree, and shall have been returned unsatisfied, in whole or in part, the party suing out such execution, may file a bill in chancery against such defendant and the party bound to perform such contract, to prevent the transfer of such contract, and to obtain satisfaction of the sum remaining due on said judgment or decree, out of the interest of the defendant in the said contract.

(28) Laws of 1820, p. 178, § 4. (29) 1 R. L. p. 442, § 26 & 28.

§ 5. The interest of the defendant in such contract, may be sold under the decree of the court, or transferred to the complainant, in such manner and upon such terms as the court shall deem most conducive to the interests of the parties; and the court shall have power in such suit, to decree a specific performance of such contract, either in favor of the complainant, or in favor of the purchaser, if the interest in the contract shall be directed to be sold.

TITLE 4.

Interest of defendant may be sold, &amp;c.

Specific performance.

§ 6. The value of the interest of the defendant holding such contract, shall be ascertained by the court, and the same, or so much thereof as may be necessary for that purpose, shall be applied to the payment of the judgment or decree of the complainant, and the residue applied to the benefit of the defendant.

Interest of defendant how applied.

§ 7. Wherever there is a tenancy at will, or by sufferance created, by the tenant's holding over his term, or otherwise, the same may be terminated by the landlord's giving one month's notice in writing to the tenant, requiring him to remove therefrom.<sup>30</sup>

Tenancy at will, &amp;c. terminated by notice.

§ 8. Such notice shall be served by delivering the same to such tenant, or to some person of proper age residing on the premises; or if the tenant can not be found, and there be no such person residing on the premises, such notice may be served by affixing the same on a conspicuous part of the premises, where it may be conveniently read.<sup>30</sup>

How served.

§ 9. At the expiration of one month from the service of such notice, the landlord may re-enter, or maintain ejectment, or proceed in the manner prescribed by law, to remove such tenant, without any further or other notice to quit.<sup>30</sup>

Rights of landlord.

§ 10. If any tenant shall give notice of his intention to quit the premises by him holden, and shall not accordingly deliver up the possession thereof, at the time in such notice specified, such tenant, his executors or administrators, shall, from thenceforward, pay to the landlord, his heirs or assigns, double the rent which he should otherwise have paid, to be levied, sued for and recovered, at the same time and in the same manner, as the single rent; and such double rent shall be continued to be paid during all the time such tenant shall continue in possession as aforesaid.<sup>31</sup>

Penalty on tenant for not yielding possession after giving notice.

§ 11. If any tenant, for life or years, or if any other person who may have come into the possession of any lands or tenements, under or by collusion with such tenant, shall wilfully hold over any lands or tenements after the termination of such term, and after demand made and one month's notice, in writing, given in the manner herein before prescribed, requiring the possession thereof by the person entitled thereto, such person so holding over shall pay to the person so kept out of possession, or his representatives, at the rate of double

Penalty on tenants, &amp;c. for holding over after notice to quit.

(30) Laws of 1820, p. 177, Proviso to § 1. (31) 1. E. L. p. 440, § 22.

## TITLE 4

the yearly value of the lands or tenements so detained, for so long time as he shall so hold over or keep the person entitled, out of possession; and shall also pay and remunerate all special damages whatsoever, to which the person so kept out of possession may be subject by reason of such holding over; and there shall be no relief in equity against any recovery had at law under this section.<sup>22</sup>

No relief in equity.

Proviso that landlord to secure rent, when goods seized under execution.

§ 12. If an execution be levied upon any goods or chattels, in upon any demised premises liable to distress for rent, the landlord such premises to whom any rent of such premises, may be due, in at any time before a sale of such goods, by virtue of such execution give notice to the party in whose favor such execution shall be issued, or to the officer holding the same, of the amount claimed by such landlord to be due, and the time during which the same accrued, and shall accompany such notice with his own affidavit, or that of his agent, of the truth thereof.<sup>23</sup>

Officer to collect rent, &c.:

§ 13. Upon receiving such notice and affidavit, the officer holding such execution, (unless prevented by the tenant of such premises executing a bond, as herein after provided,) shall levy the amount the rent so claimed to be due, in addition to the sum directed to be raised on such execution, and shall pay such additional sum to such landlord, or his agent; but the amount of rent to be levied under this section, shall not exceed the last year's rent of such premises.

but not to exceed last year's rent.

Rent to be first paid.

§ 14. In case there shall be a deficiency of goods and chattels to satisfy both such execution and rent, the amount levied shall be first applied to the satisfaction of such rent, and the balance, if any, shall be applied upon such execution.

Levying of rent, how prevented by bond.

§ 15. If any tenant against whom an execution shall be issued shall deny that rent is due to his landlord, as claimed, he may prevent the levying thereof by virtue of such execution, as herein before provided, by delivering to the officer holding such execution, a bond with two sufficient sureties, to be approved by such officer, in a penalty double the amount of the rent so claimed, to be executed to such landlord, with a condition that the obligors therein will pay all rent then due to such landlord, not exceeding one year's rent of the premises.

Duty of officer on receiving bond.

§ 16. Upon such bond being executed and delivered, the officer holding such execution shall proceed in the collection thereof, notwithstanding any claim or notice of claim, for rent which may have been made or given; and he shall deliver such bond to the landlord making such claim, or his agent, who shall be authorised to prosecute the same for the recovery of the rent due him.

Penalty on landlord.

§ 17. If any landlord shall, under the foregoing provisions, claim more rent than is due to him, and such excess shall be collected

herein provided, the tenant may maintain an action against such landlord for such excess; and if he recover therein, shall be entitled to judgment for double the amount of such excess. TITLE 4.

§ 18. When any certain services or certain rent reserved out of any lands or tenements, shall not be paid or rendered when due, the person entitled thereto, may distrain for the same. Right to distrain.

§ 19. Any person having any rent due upon any lease for life or lives, may have the same remedy to recover such arrears, by action of debt, as if such lease were for years.<sup>34</sup> Remedy on leases for life.

§ 20. Every person entitled to any rents dependent upon the life of any other, may, notwithstanding the death of such other person, have the same remedy by action or by distress, for the recovery of all arrears of such rent, that shall be behind and unpaid at the death of such other person, as he might have had if such person was in full life.<sup>34</sup> Rents dependent on life of another.

§ 21. The executors or administrators of every person to whom any rent shall have been due and unpaid at the time of his death, may have the same remedy by action or by distress, for the recovery of all such arrears, that their testator or intestate might have had, if living.<sup>34</sup> Remedy of executors, &c. for arrears of rent.

§ 22. When a tenant for life, who shall have demised any lands, shall die on or after the day when any rent became due and payable, his executors or administrators may recover from the under tenant, the whole rent due; if he die before the day when any rent is to become due, they may recover the proportion of rent which accrued before his death.<sup>34</sup> Executors, &c. of tenant for life.

§ 23. The grantees of any demised lands, tenements, rents or other hereditaments, or of the reversion thereof, the assignees of the lessor of any demise, and the heirs and personal representatives of the lessor, grantee or assignee, shall have the same remedies by entry, action, distress or otherwise, for the non-performance of any agreement contained in the lease so assigned, or for the recovery of any rent, or for the doing of any waste or other cause of forfeiture, as their grantor or lessor had, or might have had, if such reversion had remained in such lessor or grantor.<sup>35</sup> Rights of grantees, assignees, &c. of lessor of demised lands.

§ 24. The lessees of any lands, their assigns or personal representatives, shall have the same remedy by action or otherwise against the lessor, his grantees, assignees, or his or their representatives, for the breach of any covenant or agreement in such lease contained, as such lessee might have had against his immediate lessor, except covenants against incumbrances, or relating to the title or possession of the premises demised.<sup>35</sup> Rights of lessees and their assigns, &c.

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(34) 1. R. L. p. 488, § 16, 18, 19, 20 & 27. (35) *Ib.* p. 363.

## TITLE 3.

Application of two last sections.

When landlord may recover for use and occupation.

Penalty on tenant for not delivering, &c. notice served on him.

§ 25. The provisions of the two last sections shall extend as to grants or leases in fee, reserving rents, as to leases for life an years.<sup>36</sup>

§ 26. Any landlord may recover in an action on the case, a reasonable satisfaction for the use and occupation of any lands or tenements, by any person under any agreement not made by deed: if any parol demise or other agreement, not being by deed, by which a certain rent is reserved, shall appear in evidence on the trial of such action, the plaintiff shall not on that account be debarred a recovery, but may make use thereof as evidence of the amount of the damages to be recovered.<sup>37</sup>

§ 27. Every tenant to whom a declaration in ejectment, or other process, proceeding or notice of any proceeding, to recover land occupied by him, or the possession thereof, shall be served, forthwith give notice thereof to his landlord, under the penalty of forfeiting the value of three years rent of the premises so occupied by him, which may be sued for and recovered by the landlord or person to whom such tenant holds.<sup>38</sup>

## TITLE V.

## MISCELLANEOUS PROVISIONS OF A GENERAL NATURE.

- Sec. 1. Words of inheritance not necessary to convey a fee, &c.
2. Intent of parties to conveyances, to be carried into effect.
3. Purchasers from heirs, not affected by will unless it be recorded, &c.
4. Heirs and devisees to extinguish mortgages on lands coming to them.
5. Mortgages for purchase money to be preferred to previous judgments.
6. When persons on whose lives estates depend, to be deemed dead.
7. Liability of guardians, &c. holding over after their estates have ceased.
8. Remedies of Reversioners and Remainder men, for injuries to estates.
9. Remedies of joint tenants and tenants in common against each other.
10. Definition of terms "real estate" and "lands."
11. Vested rights, and construction of instruments, not to be affected.

Certain words not necessary to pass a fee.

All the estate of grantor to pass, unless, &c.

Duty of courts in construing conveyances.

Wills of real estate to be proved and

§ 1. The term "heirs," or other words of inheritance, shall be requisite to create or convey an estate in fee; and every grantor shall pass all the estate or interest of the grantor or testator, unless a contrary intent to pass a less estate or interest shall appear, by express terms or be necessarily implied in the terms of such grant.

§ 2. In the construction of every instrument creating or conveying or authorising the creation or conveyance of, any estate or interest in lands, it shall be the duty of courts of justice, to carry into effect the intent of the parties, so far as such intent can be collected from the whole instrument, and is consistent with the rules of law.

§ 3. The title of a purchaser in good faith and for a valuable consideration, from the heirs at law of any person who shall have



seised of real estate, shall not be defeated or impaired, by virtue of any devise made by such person, of the real estate so purchased, unless the will or codicil containing such devise, shall have been duly proved as a will of real estate, and recorded in the office of the surrogate having jurisdiction, within four years after the death of the testator : except,

**TITLE 5.**  
 Recorded within four years, except when devisee under disability, or will has been concealed.

1. Where the devisee shall have been within the age of twenty-one years, or insane, or imprisoned, or a married woman, or out of the state, at the time of the death of such testator : or,

2. Where it shall appear, that the will or codicil containing such devise, shall have been concealed by the heirs of such testator, or some one of them :

In which several cases, the limitation contained in this section shall not commence, until after the expiration of one year from the time when such disability shall have been removed, or such will or codicil shall have been delivered to the devisee or his representative, or to the proper surrogate.

§ 4. Whenever any real estate, subject to a mortgage executed by any ancestor or testator, shall descend to an heir, or pass to a devisee, such heir or devisee shall satisfy and discharge such mortgage, out of his own property, without resorting to the executor or administrator of his ancestor, unless there be an express direction in the will of such testator, that such mortgage be otherwise paid.

Mortgages on lands inherited or devised, by whom to be paid.

§ 5. Whenever lands are sold and conveyed, and a mortgage is given by the purchaser at the same time, to secure the payment of the purchase money, or any part thereof, such mortgage shall be preferred to any previous judgment which may have been obtained against such purchaser.<sup>39</sup>

Preference to mortgages for purchase money.

§ 6. If any person, upon whose life any estate in lands or tenements shall depend, shall remain beyond sea, or shall absent himself, in this state or elsewhere, for seven years together, such person shall be accounted naturally dead, in any action concerning such lands or tenements, in which his death shall come in question, unless sufficient proof be made in such case, of the life of such person.<sup>40</sup>

Presumption of death in certain cases.

§ 7. Every person, who, as guardian or trustee for an infant, and every husband seised in right of his wife only, and every other person having an estate determinable upon any life or lives, who, after the determination of such particular estate, without the express consent of the party immediately entitled after such determination, shall hold over and continue in possession of any lands, tenements or hereditaments, shall be adjudged to be a trespasser ; and every person and his executors and administrators, who shall be entitled to such lands, tenements or hereditaments, upon the determination of such particu-

Liability of guardians, &c. holding over after their estates have ceased.

(39) 1. R. L. p. 375, § 15. (40) Ib. p. 103, § 1.

**CHAP. 2** lar estates, may recover in damages against every such person so holding over, and against his, her or their executors or administrators, the full value of the profits received during such wrongful possession.<sup>41</sup>

Remedies of reversioners, &c.

§ 8. A person seised of an estate in remainder or reversion, may maintain an action of waste or trespass, for any injury done to the inheritance, notwithstanding any intervening estate for life or years.<sup>42</sup>

Remedies of joint tenants, &c.

§ 9. One joint tenant or tenant in common, and his executors or administrators, may maintain an action of account, or for money had and received, against his co-tenant for receiving more than his just proportion; and the like action may be maintained by them against the executors or administrators of such co-tenant.<sup>43</sup>

"Real estate" and "lands" defined.

§ 10. The terms "real estate," and "lands," as used in this Chapter, shall be construed as co-extensive in meaning with lands, tenements and hereditaments.

Vested rights, and construction of instruments, not to be affected.

§ 11. None of the provisions of this Chapter, except those converting formal trusts into legal estates, shall be construed as altering or impairing any vested estate, interest or right; or as altering or affecting the construction of any deed, will or other instrument, which shall have taken effect at any time before this Chapter shall be in force as a law.

## CHAP. II.

### Of Title to Real Property by Descent.

- SEC. 1. General rule as to the order in which real estate shall descend.
2. Rule as to lineal descendants in equal degrees of consanguinity.
3. Rule when any children are living and any have died leaving descendants.
4. Rule in last section to apply to all descendants of unequal degrees.
5. In what cases inheritance to go to father.
6. When inheritance to go to mother for life; when in fee.
7. When collateral relatives to inherit; rule if there are several of equal degrees.
8. Brothers and sisters and their descendants, when, and in what shares, to inherit.
9. Rule in last section to apply to all other direct lineal descendants of brothers and sisters, of unequal degrees.
10. Brothers and sisters of father, and their descendants, when, and in what shares, to inherit.
11. When brothers and sisters of mother, and their descendants, to inherit.
12. In what case brothers and sisters of mother, and their descendants, to be preferred to those of father.
13. When brothers and sisters of both father and mother, and their descendants, to inherit equally.
14. When mother of illegitimate intestate, and her descendants, to inherit.
15. Rule as to relatives of the half blood.
16. In cases not provided for, rules of common law to prevail.
17. Rule when but one heir; when several, to hold as tenants in common.
18. Posthumous descendants and relatives, to inherit as if born in life of intestate.
19. Illegitimate children and relatives, not to inherit.

(41) 1 R. L. p. 167, § 7. (42) *Ib.* p. 537, § 33. (43) *Ib.* p. 90 § 2

Sec. 20. This Chapter not to affect estates by the curtesy or in dower, or limitations by deed or will. CHAP. 2

- 21. Descent of estates in trust.
- 22. Alienism of ancestor not to preclude inheritance.
- 23. Advancement of real and personal estate, if equal to share of an heir, to be set off against it.
- 24. If not equal, to be deducted, so that all the shares may be equal.
- 25. Value of advancement, how ascertained.
- 26. Certain expenses and gifts, not to be deemed advancements.
- 27. Definition of terms "real estate" and "inheritance."
- 28 & 29. Construction of certain expressions used in this Chapter.

SECTION 1. After this Chapter shall take effect, the real estate of every person, who shall die without devising the same, shall descend in manner following: General rule as to the order in which real estate shall descend

1. To his lineal descendants:
2. To his father:
3. To his mother: and
4. To his collateral relatives:

Subject in all cases to the rules and regulations herein after prescribed.

§ 2. If the intestate shall leave several descendants in the direct line of lineal descent, and all of equal degree of consanguinity to such intestate, the inheritance shall descend to such persons in equal parts, however remote from the intestate, the common degree of consanguinity may be.<sup>1</sup> Lineal descendants being in equal degrees.

§ 3. If any of the children of such intestate be living, and any be dead, the inheritance shall descend to the children who are living, and to the descendants of such children as shall have died; so that each child who shall be living, shall inherit such share as would have descended to him, if all the children of the intestate who shall have died leaving issue, had been living; and so that the descendants of each child who shall be dead, shall inherit the share, which their parent would have received if living.<sup>2</sup> Children living, and descendants of dead children

§ 4. The rule of descent prescribed in the last section, shall apply in every case where the descendants of the intestate, entitled to share in the inheritance, shall be of unequal degrees of consanguinity to the intestate; so that those who are in the nearest degree of consanguinity, shall take the shares which would have descended to them, had all the descendants in the same degree of consanguinity, who shall have died leaving issue, been living; and so that the issue of the descendants who shall have died, shall respectively take the shares, which their parents, if living, would have received.<sup>3</sup> Rule in last section to apply to all descendants of unequal degrees.

§ 5. In case the intestate shall die without lawful descendants, and leaving a father, then the inheritance shall go to such father, unless the inheritance came to the intestate, on the part of his mother.<sup>3</sup> When father to inherit

(1) 1 E. L. p. 52, § 3, first rule. (2) Ib. second rule. (3) Ib. third rule.

## CHAP. 2

When mother to inherit for her life.

§ 6. If the intestate shall die without descendants and leaving no father, or leaving a father not entitled to take the inheritance under the last preceding section, and leaving a mother, and a brother or sister, or the descendant of a brother or sister, then the inheritance shall descend to the mother during her life, and the reversion to such brothers and sisters of the intestate as may be living, and the descendants of such as may be dead, according to the same law of inheritance herein after provided. If the intestate in such case, shall leave no brother or sister, nor any descendants of any brother or sister, the inheritance shall descend to the mother in fee.

When to inherit in fee.

Collateral relatives.

Rule when all of different degree.

§ 7. If there be no father or mother, capable of inheriting the estate, it shall descend, in the cases herein after specified, to the collateral relatives of the intestate; and if there be several such relatives, all of equal degree of consanguinity to the intestate, the inheritance shall descend to them in equal parts, however remote from the intestate, the common degree of consanguinity may be.<sup>4</sup>

Brothers and sisters.

Their descendants.

§ 8. If all the brothers and sisters of the intestate be living, the inheritance shall descend to such brothers and sisters; if any of them be living, and any be dead, then to the brothers and sisters, and every of them who are living, and to the descendants of such brothers and sisters as shall have died; so that each brother or sister who shall be living, shall inherit such share as would have descended to him or her, if all the brothers and sisters of the intestate, who shall have died leaving issue, had been living; and so that such descendants shall inherit the share, which their parent would have received, if living.<sup>4</sup>

Rule if such descendants are of unequal degrees.

§ 9. The same law of inheritance, prescribed in the last section, shall prevail, as to the other direct lineal descendants of every brother and sister of the intestate, to the remotest degree, whenever such descendants are of unequal degrees.

Brothers and sisters of father, and their descendants.

§ 10. If there be no heir entitled to take under either of the preceding sections, the inheritance, if the same shall have come to the intestate on the part of his father, shall descend,

1. To the brothers and sisters of the father of the intestate in equal shares, if all be living:
2. If any be living, and any shall have died leaving issue, then to such brothers and sisters as shall be living, and to the descendants of such of the said brothers and sisters as shall have died:
3. If all such brothers and sisters shall have died, then to their descendants:

In all cases, the inheritance shall descend in the same manner, as if all such brothers and sisters, had been the brothers and sisters of the intestate.

(4) 1 R. L. p. 52, § 8, 4th and 5th rules.

§ 11. If there be no brothers and sisters, or any of them, of the father of the intestate, and no descendants of such brothers and sisters, then the inheritance shall descend to the brothers and sisters of the mother of the intestate, and to the descendants of such of the said brothers and sisters as shall have died, or if all shall have died, then to their descendants, in the same manner, as if all such brothers and sisters had been the brothers and sisters of the father.

CHAP. 2.  
Brothers and sisters of mother and their descendants.

§ 12. In all cases not provided for by the preceding sections, where the inheritance shall have come to the intestate on the part of his mother, the same, instead of descending to the brothers and sisters of the intestate's father, and their descendants, as prescribed in the preceding tenth section, shall descend to the brothers and sisters of the intestate's mother, and to their descendants, as directed in the last preceding section; and if there be no such brothers and sisters, or descendants of them, then such inheritance shall descend to the brothers and sisters and their descendants, of the intestate's father, as before prescribed.<sup>5</sup>

In what case brothers and sisters of mother, and their descendants, to be preferred to those of father.

§ 13. In cases where the inheritance has not come to the intestate, on the part of either the father or mother, the inheritance shall descend to the brothers and sisters both of the father and mother of the intestate, in equal shares, and to their descendants, in the same manner as if all such brothers and sisters, had been the brothers and sisters of the intestate.

When brothers and sisters of both father and mother, &c. to inherit equally.

§ 14. In case of the death, without descendants, of an intestate who shall have been illegitimate, the inheritance shall descend to his mother; if she be dead, it shall descend to the relatives of the intestate on the part of the mother, as if the intestate had been legitimate.

Mother, &c. of illegitimate intestate.

§ 15. Relatives of the half blood shall inherit equally with those of the whole blood in the same degree; and the descendants of such relatives shall inherit in the same manner as the descendants of the whole blood; unless the inheritance came to the intestate by descent, devise, or gift of some one of his ancestors; in which case, all those who are not of the blood of such ancestor, shall be excluded from such inheritance.

Relatives of the half blood

§ 16. In all cases not provided for by the preceding rules, the inheritance shall descend according to the course of the common law.<sup>6</sup>

Common law when to prevail.

§ 17. Whenever there shall be but one person entitled to inherit, according to the provisions of this Chapter, he shall take and hold the inheritance solely; and whenever an inheritance, or a share of an inheritance, shall descend to several persons, under the provisions of this Chapter, they shall take as tenants in common, in proportion to their respective rights.

Rule as to one heir.

Several heirs, how to hold.

(5) 1 R. L. p. 52 § 3, 3d rule. (6) Ib. 5th rule.

**CHAP. 2.** § 18. Descendants and relatives of the intestate, begotten before his death, but born thereafter, shall in all cases inherit in the same manner, as if they had been born in the lifetime of the intestate, had survived him.<sup>7</sup>

*Illegitimate children and relatives.* § 19. Children and relatives who are illegitimate, shall not be entitled to inherit, under any of the provisions of this Chapter.

*Certain estates, &c. not to be affected.* § 20. The estate of a husband as tenant by the curtesy, or widow as tenant in dower, shall not be affected by any of the provisions of this Chapter; nor shall the same affect any limitation of estate by deed or will.<sup>8</sup>

*Estate in trust.* § 21. Real estate held in trust for any other person, if not devised by the person for whose use it is held, shall descend to his heirs, according to the provisions of this Chapter.<sup>9</sup>

*Alienism of ancestor.* § 22. No person capable of inheriting under the provisions of this Chapter, shall be precluded from such inheritance, by reason of alienism of any ancestor of such person.

*When advancement to be set off.* § 23. If any child of an intestate shall have been advanced by settlement or portion of real or personal estate, or of both of the value thereof shall be reckoned, for the purposes of this section as part of the real and personal estate of such intestate, descendible to his heirs, and to be distributed to his next of kin, according to law, and if such advancement be equal or superior, to the amount of his share, which such child would be entitled to receive, of the real and personal estate of the deceased, as above reckoned, then such child and his descendants shall be excluded from any share, in the real and personal estate of the intestate.<sup>10</sup>

*When to be deducted.* § 24. But if such advancement be not equal to such share, the child and his descendants shall be entitled to receive so much of the personal estate, and to inherit so much only, of the real estate of the intestate, as shall be sufficient to make all the shares of the children, in such real and personal estate and advancement, equal as near as can be estimated.<sup>10</sup>

*Value of advancement.* § 25. The value of any real or personal estate so advanced, shall be deemed to be that, if any, which was acknowledged by the child by an instrument in writing; otherwise such value shall be estimated according to the worth of the property when given.

*Expenses, &c. not advancements.* § 26. The maintaining or educating, or the giving of money to a child, without a view to a portion or settlement in life, shall not be deemed an advancement.

*Terms "real estate" and "inheritance" defined.* § 27. The term "real estate," as used in this Chapter, shall be construed to include every estate, interest and right, legal and equitable, in lands, tenements and hereditaments, except such as are d

(7) 1 R. L. p. 54, § 5. (8) *Ib.* § 4. (9) *Ib.* p. 74, § 4. (10) *Ib.* p. 313, § 16.

mined or extinguished by the death of an intestate, seised or possessed thereof, or in any manner entitled thereto, and except leases for years, and estates for the life of another person; and the term "inheritance," as used in this Chapter, shall be understood to mean real estate, as herein defined, descended according to the provisions of this Chapter.

CHAP. 3.

§ 28. Whenever, in the preceding sections, any person is described as living, it shall be understood that he was living at the time of the death of the intestate, from whom the descent came; and whenever any person is described as having died, it shall be understood, that he died before such intestate.

Construction of certain expressions.

§ 29. The expressions used in this Chapter, "where the estate shall have come to the intestate, on the part of the father," or "mother," as the case may be, shall be construed to include every case where the inheritance shall have come to the intestate, by devise, gift, or descent from the parent referred to, or from any relative of the blood of such parent.

Meaning of certain other expressions.

## CHAP. III.

### Of the Proof and Recording of Conveyances of Real Estate, and the Cancelling of Mortgages.

- Sec. 1. Conveyances of real estate where to be recorded; consequence of omission.
2. Deeds and mortgages to be recorded in different sets of books.
3. Defeasances, &c. of deeds to be recorded with them.
4. Officers in this state and in United States authorised to take proof, &c. of deeds.
5. Ambassadors, consuls, &c. in Europe, &c. may take proofs, &c.
6. In Great Britain, &c. consuls, &c. may take proof, &c.
7. Proofs, &c. how certified by mayors, consuls and ambassadors; effect thereof.
8. Proofs, &c. before special commissioners appointed by chancery.
9. Identity of person acknowledging deed, to be known or proved.
10. Married women in this state, to be examined, &c.
11. Proof, &c. of conveyances by married women residing out of this state.
12. Proof of deeds by subscribing witness, how made.
13. When and how witnesses to deeds, compelled to testify concerning them.
14. Penalty and proceedings on refusal, &c. to appear or to testify.
15. Certificate of proof, &c. to be endorsed on deed; its contents.
16. Conveyances so proved and certified, evidence and entitled to be recorded.
17. Record and transcript, evidence; proof, &c. may be contested.
18. Certificates of certain judges and commissioners when and how to be authenticated.
19. Last section not to apply to deeds of agents of certain estates.
20. Certificates to be recorded with conveyance; effect of omission.
21. Conveyances by treasurer of Connecticut, how verified.
22. This Chapter not to affect conveyances heretofore proved, &c.
23. Conveyances heretofore executed, but not proved, how to be proved, &c.
24. Conveyances to be recorded in order of delivery, and deemed then recorded.
25. Entry of time of recording, &c. to be made, and endorsed on deed.
26. Transcripts of records how to be verified, in order to be evidence.
27. Conveyances of lands out of this state, how to be proved, &c.
28. Upon what proof records, &c. of mortgages, to be discharged.
29. Certificate of discharge and proof, &c. to be recorded; in the minutes of discharge, a reference to be made to the page where certificate is recorded.

## CHAP. 3

- Sec. 30. When witnesses to conveyance dead, before whom it may be proved.
31. What proof to be made ; matters to be stated in certificate.
32. Deed so proved, on being deposited, may be recorded.
33. Effect of recording and deposit, as notice, as evidence.
34. Punishment for recording deeds, &c. without being proved, &c.
35. Punishment of judges, &c. for malfeasance in executing powers herein given.
36. Definition of term "real estate," as used in this Chapter.
37. Construction of the term "purchaser."
38. Meaning of term "conveyance."
39. Last section not to extend to powers of attorney, but they and contracts for may be proved, &c. and recorded ; effect thereof.
40. Letter of attorney recorded not affected by revocation until it be recorded.
41. Recording assignment of mortgage not to be notice to mortgagor, &c.
42. This Chapter not to extend to leases for life or years, in certain counties.
43. What provisions of this Chapter apply to register in New-York.

Conveyances  
to be record-  
ed in county  
clerk's office.

[Wills to be  
recorded, see  
ch. 1. title 6,  
§ 3.]

Different  
books for  
deeds and  
mortgages.

Certain deeds  
to be deemed  
mortgages :

Defeasances,  
&c. to be re-  
corded.

Officers who  
may take  
proof, &c. of  
deeds :

In this state :

SECTION 1. Every conveyance of real estate, within this s hereafter made, shall be recorded in the office of the clerk of county where such real estate shall be situated ; and every such conveyance not so recorded, shall be void as against any subsequent chaser, in good faith and for a valuable consideration, of the same estate, or any portion thereof, whose conveyance shall be first recorded.<sup>1</sup>

§ 2. Different sets of books shall be provided, by the clerks o several counties, for the recording of deeds and mortgages ; in o which sets, all conveyances absolute in their terms, and not inter as mortgages, or as securities, in the nature of mortgages, shall b corded ; and in the other set, such mortgages and securities sha recorded.

§ 3. Every deed conveying real estate, which, by any othe strument in writing, shall appear to have been intended, only, security in the nature of a mortgage, though it be an absolute veyance in terms, shall be considered as a mortgage ; and the p for whose benefit, such deed shall be made, shall not derive an vantage from the recording thereof, unless every writing, operati a defeasance of the same, or explanatory of its being designed to l the effect only of a mortgage, or conditional deed, be also recd therewith, and at the same time.<sup>2</sup>

§ 4. To entitle any conveyance hereafter made, to be recorde any county clerk, it shall be acknowledged by the party or partie ecuting the same, or shall be proved by a subscribing witness the before any one of the following officers :

1. If acknowledged or proved within this state ; the chanc justices of the supreme court, circuit judges, supreme court con sioners, judges of county courts, mayors and recorders of citie commissioners of deeds ; but no county judge, or commission deeds for a county or city, shall take any such proof or acknowl ment, out of the city or county, for which he was appointed :

(1) 1 R. L. p. 369, 372 ; Laws of 1819, p. 269 ; of 1821, p. 127 ; of 1822, p. 251, & 1823, p. 412. (2) 1 R. L. 372, § 3 ; Laws of 1822, p. 262, § 3.



2. If acknowledged or proved out of this state, and within the United States; the chief justice and associate justices of the supreme court of the United States, district judges of the United States, the judges or justices of the supreme, superior or circuit court, of any state or territory, within the United States, and the chief judge, or any associate judge, of the circuit court of the United States, in the district of Columbia; but no proof or acknowledgment, taken by any such officer, shall entitle a conveyance to be recorded, unless taken within some place or territory, to which the jurisdiction of the court to which he belongs, shall extend.<sup>3</sup>

CHAP. 3.  
In any other part of United States.

§ 5. If the party or parties executing such conveyance, shall be, or reside, in any state or kingdom in Europe, or in North, or South America, the same may be acknowledged or proved before any minister plenipotentiary, or any minister extraordinary, or any *charge des affaires*, of the United States, resident and accredited within such state or kingdom. If such parties be or reside in France, such conveyance may be acknowledged or proved before the consul of the United States, appointed to reside at Paris; and if such parties be or reside in Russia, such conveyance may be acknowledged or proved before the consul of the United States appointed to reside at St. Petersburg.<sup>4</sup>

Ambassadors, consuls, &c. in Europe, &c.

§ 6. If the party to such conveyance be, or reside, within the United Kingdom of Great Britain and Ireland, or the dominions thereunto belonging, the same may be acknowledged or proved before the mayor of the city of London, the mayor or chief magistrate of the city of Dublin, or the provost or chief magistrate of the city of Edinburgh, or before the mayor or chief magistrate of Liverpool, or before the consul of the United States appointed to reside at London.<sup>5</sup>

Mayors, consuls, &c. in Great Britain.

§ 7. Such proof or acknowledgment, duly certified under the hand, and seal of office, of such consuls, or of the said mayors or chief magistrates respectively, or of such minister or *charge des affaires*, shall have the like force and validity, as if the same were taken, before a justice of the supreme court of this state.<sup>6</sup>

Proofs, &c. how certified in foreign countries.

§ 8. Every such conveyance, heretofore made, or hereafter to be made, may be acknowledged or proved, without the United States, before any person specially authorised for that particular purpose, by a commission under the seal of the court of chancery of this state, to be issued to any reputable person residing in, or going to, the country where such proof or acknowledgment is to be taken; and the acknowledgment or proof so taken, shall be of the like force and validity, as if the same were taken before a justice of the supreme court of this state.<sup>7</sup>

Proofs, &c. taken by special commission from chancery.

(3) 1 R. L. p. 369, § 1. (4) Laws of 1816, p. 118. (5) 1 R. L. 370, § 3; Laws of 1817, p. 58. (6) Laws of 1816, p. 118; 1 R. L. 370; Laws of 1817, p. 58. (7) Laws of 1817, p. 58, § 1 & 2.

**CHAP. 3.**  
**Requisites**  
**for acknow-**  
**ledgments.**

§ 9. No acknowledgment of any conveyance having been executed, shall be taken by any officer, unless the officer taking the same shall know, or have satisfactory evidence, that the person making such acknowledgment, is the individual described in, and who executed such conveyance.<sup>8</sup>

**It. When**  
**made by mar-**  
**ried women**  
**in this state.**

§ 10. The acknowledgment of a married woman residing within this state, to a conveyance purporting to be executed by her, shall be taken, unless in addition to the requisites contained in the preceding section, she acknowledge, on a private examination, and from her husband, that she executed such conveyance, freely, without any fear or compulsion of her husband; nor shall any acknowledgment of any such married woman, pass, by any conveyance not so acknowledged.<sup>8</sup>

**Married wo-**  
**men residing**  
**out of this**  
**state.**

§ 11. When any married woman, not residing in this state, shall join with her husband, in any conveyance of any real estate, situated within this state, the conveyance shall have the same effect as if she were sole; and the acknowledgment or proof, of the execution of such conveyance by her, may be the same as if she were sole.<sup>8</sup>

**Proof by sub-**  
**scribing wit-**  
**ness.**

§ 12. The proof of the execution of any conveyance, shall be taken by a subscribing witness thereto, who shall state his own place of residence, and that he knew the person described in, and who executed such conveyance; and such proof shall not be taken, unless the officer is personally acquainted with such subscribing witness, or has satisfactory evidence that he is the same person, who was a subscribing witness to such instrument.<sup>8</sup>

**When and**  
**how wit-**  
**nesses to**  
**deeds, com-**  
**pelled to tes-**  
**tify concern-**  
**ing them.**

§ 13. Upon the application of any grantee, in any conveyance to his heirs or personal representatives, or of any person claiming under them, verified by the oath of the applicant, that any witness to such conveyance, residing in the county where such application is made, refuses to appear and testify, touching the execution thereof, and such conveyance cannot be proved without his evidence, any officer authorized to take the acknowledgment or proof of conveyances, except a commissioner of deeds, may issue a subpoena requiring such witness to appear and testify before such officer, touching the execution of such conveyance.

**Penalty, &c.**  
**for refusal**  
**to appear or**  
**to testify.**

§ 14. Every person, who being served with such subpoena, shall, without reasonable cause, refuse or neglect to appear, or appear and shall refuse to answer upon oath, touching the matters aforesaid, shall be liable to forfeit to the party injured, one hundred dollars; and may also be committed to prison by the officer who issued such subpoena, and there remain without bail, and without the liberties of the jail, until he shall submit to answer upon oath as aforesaid.

§ 15. Every officer who shall take the acknowledgment or proof, of any conveyance, shall endorse a certificate thereof, signed by himself, on the conveyance; and in such certificate, shall set forth the matters herein before required to be done, known, or proved, on such acknowledgment or proof, together with the names of the witnesses examined before such officer, and their places of residence, and the substance of the evidence by them given.<sup>9</sup>

CHAP. 3.  
Certificate of proof, &c. to be endorsed on deed; its contents.

§ 16. Every conveyance, acknowledged, or proved, and certified in the manner above prescribed, by any of the officers before named, may be read in evidence, without further proof thereof, and shall be entitled to be recorded.<sup>10</sup>

Effect of proof, &c.

§ 17. The record of a conveyance duly recorded, or a transcript thereof, duly certified, may also be read in evidence, with the like force and effect as the original conveyance. Neither the certificate of the acknowledgment, or of the proof, of any conveyance, nor the record, or transcript of the record, of such conveyance, shall be conclusive, but may be rebutted, and the force and effect thereof, may be contested by any party affected thereby. If the party contesting the proof of a conveyance, shall make it appear that such proof was taken upon the oath of an interested or incompetent witness, neither such conveyance, nor the record thereof, shall be received in evidence until established by other competent proof.<sup>10</sup>

Record, &c. evidence.

Certificate not conclusive.

When not to be evidence.

§ 18. Where any conveyance shall be proved or acknowledged, before any judge of the county courts, not of the degree of counsellor at law, in the supreme court, or before any commissioner of deeds appointed for any county or city, it shall not be entitled to be read in evidence, or to be recorded, in any other county than that in which such judge or commissioner shall reside, unless in addition to the preceding requisites, there shall be subjoined to the certificate of proof or acknowledgment, signed by such judge or commissioner, a certificate under the hand and official seal of the clerk of the county, in which such judge or commissioner resides, specifying that such judge or commissioner was, at the time of taking such proof or acknowledgment, duly authorised to take the same, and that the said clerk is well acquainted with the handwriting of such judge or commissioner, and verily believes, that the signature to the said certificate of proof or acknowledgment, is genuine.<sup>11</sup>

Certificates of certain judges and of commissioners of deeds, to be authenticated in certain cases by county clerk.

§ 19. The last section shall not apply to any conveyance executed by any agent for the Holland Land Company, or by any agent of the Pulteney estate, lawfully authorised to convey real estate.

Last section qualified.

§ 20. The certificate of the proof or acknowledgment of every conveyance, and the certificate of the genuineness of the signature of any judge or commissioner, in the cases where such last mentioned

Certificates to be recorded with conveyance;

(9) 1. R. L. p. 369, § 1 & 2. (10) *Ib.* § 5. (11) *Laws of 1818*, p. 44, § 5 & 8.

**CHAP. 3.** certificate is required, shall be recorded, together with the conveyance, so proved or acknowledged; and unless the said certificate be recorded, neither the record of such conveyance, nor the transcript thereof, shall be read, or received in evidence.<sup>12</sup>

Conveyances by Treasurer of Connecticut.

§ 21. All conveyances of real estate, executed since the tenth of March, one thousand eight hundred and twenty-five, or hereinafter to be executed, by the treasurer of the state of Connecticut, which shall be acknowledged by him before the secretary of state of the state of Connecticut, and the acknowledgment of which, shall be certified by the said secretary, under the seal of the said state, in the manner herein prescribed, may be recorded in the proper offices within the state, without further proof thereof; and every such conveyance, the record thereof, or the transcript of such record, duly certified, shall be read in evidence, as if such conveyance had been acknowledged before a justice of the supreme court.<sup>13</sup>

This chapter not to effect conveyances heretofore proved, &c.

§ 22. Every conveyance of any real estate within this state, heretofore executed, and heretofore acknowledged or proved and certified in such manner as to be entitled to be read in evidence, or recorded under the laws now in force, but which has not been so recorded shall be entitled to be read in evidence, in all courts, and to be recorded in the proper office, in the same manner, and with the like effect, as if this Chapter had not been passed.

Existing conveyances not proved.

§ 23. Every such conveyance, not already proved or acknowledged, may be proved or acknowledged, in the same manner as conveyances hereafter executed, and when so proved, acknowledged or recorded, shall have the like effect.

Order of recording, &c.

§ 24. Every conveyance entitled by law to be recorded, shall be recorded in the order, and as of the time, when the same shall be delivered to the clerk for that purpose, and shall be considered as recorded, from the time of such delivery.<sup>14</sup>

Time of recording, to be entered and endorsed on deed.

§ 25. The recording officer shall make an entry in the record, immediately after the copy of every conveyance recorded, specifying the time of the day, month and year, when the said conveyance was recorded, and shall endorse upon every conveyance recorded by him a certificate, stating the time as aforesaid, when, and the book and page where, the same was recorded.<sup>14</sup>

Transcripts of records, how to be verified.

§ 26. To entitle the transcript of any record of such conveyance recorded as aforesaid, and of the certificates of the acknowledgment or proof thereof, and of the genuineness of any signature to such certificate, to be read in evidence, the same shall be certified to be a true copy of such record, by the clerk of the county in whose custody the same shall be, under the seal of the court of common pleas of

(12) Laws of 1818, p. 44, § 5. (13) Laws of 1825, p. 35. (14) 1. R. L. p. 370, § 5.

county of which he is clerk, or by the register of the city and county of New-York, when such record shall be in his custody.<sup>15</sup>

CHAP. 3.

§ 27. Every conveyance of real estate situated without this state, heretofore made, or hereafter made, and which shall be acknowledged or proved, in the manner prescribed by the laws of this state, in relation to conveyances of lands within this state, may be read in evidence in any court without further proof thereof, in the same manner and with the same effect, as if such conveyance related to real estate within this state; but this section shall not be construed to prevent the reading in evidence, of any conveyance of lands within any other of the United States, which shall have been duly authenticated, according to the laws of such state, so as to be read in evidence in the courts thereof.<sup>16</sup>

Proof, &c. of conveyances of lands out of this state.

§ 28. Any mortgage that has been registered or recorded, or that may hereafter be recorded, shall be discharged upon the record thereof, by the officer in whose custody it shall be, whenever there shall be presented to him, a certificate signed by the mortgagee, his personal representatives or assigns, acknowledged, or proved, and certified, as herein before prescribed, to entitle conveyances to be recorded, specifying that such mortgage has been paid, or otherwise satisfied and discharged.<sup>17</sup>

Discharge of record, &c. of mortgages.

§ 29. Every such certificate, and the proof or acknowledgment thereof, shall be recorded at full length: and a reference shall be made to the book and page, containing such record, in the minute of the discharge of such mortgage, made by the officer upon the record thereof.<sup>17</sup>

Certificate of discharge, &c. to be recorded. Reference in minute of discharge.

§ 30. Where the witnesses to any conveyance, authorised by this Chapter to be recorded, shall be dead, then the same may be proved before any officer authorised to take the proof and acknowledgment of deeds, other than commissioners of deeds, and county judges not of the degree of counsel in the supreme court.

Proof of deed when witnesses are dead.

§ 31. The proof of the execution of any conveyance in such case, shall be made by satisfactory evidence of the death of all the witnesses thereto, and of the hand-writing of such witnesses, or any one of them, and of the grantor; all which evidence, with the names and places of residence of the witnesses examined before him, shall be set forth by the officer taking the same, in his certificate of such proof.

What proof to be made, how certified

§ 32. Any conveyance proved and certified, pursuant to the two last sections, may be recorded in the proper office, if the original deed be at the same time deposited in the same office, there to remain, for the inspection of all persons desiring to examine the same.

When deed to be recorded.

§ 33. The recording and deposit of any conveyance, proved and certified according to the provisions of the three last sections, shall

Effect of recording and deposit.

(15) 1. R. L. p. 370, § 5. (16) Laws of 1817, p. 58, § 2. (17) 1. R. L. p. 373, § 4.

**CHAP. 3** be constructive notice of the execution of such conveyance, purchasers subsequent to such recording; but such proof, record or deposit, shall not entitle such conveyance, or the record thereof, to be read in evidence.

**Punishment for recording deeds, &c. without being proved, &c.**

§ 34. No clerk of any city or county, shall record any conveyance by which any interest in real estate is, or may be in any way affected, unless the same shall have been duly acknowledged or proved, such acknowledgment or proof duly certified according to law. Any such officer offending herein, shall be adjudged guilty of a misdemeanor, and on conviction, shall be subject to fine and imprisonment.

**Punishment of judges, clerks, &c. for malfeasance.**

§ 35. Every judge, officer, or other person, within this state authorised to take the acknowledgment or proof of any conveyance, every clerk of any county, or his deputy, who shall be guilty of malfeasance, or fraudulent practice in the execution of the duties prescribed to them by law, in relation to the taking, or certifying proof or acknowledgment, or the recording, or certifying, any one of any such conveyance, mortgage, or instrument in writing, or in relation to the cancelling of any mortgage, shall, upon conviction, be adjudged guilty of a misdemeanor, and be subject to punishment by fine and imprisonment, and shall also be liable in damages to the party injured.<sup>19</sup>

**Term "real estate" defined.**

§ 36. The term "real estate," as used in this Chapter, shall be construed as co-extensive in meaning with "lands, tenements and hereditaments," and as embracing all chattels real, except leases for a term not exceeding three years.

**Term "purchaser."**

§ 37. The term "purchaser," as used in this Chapter, shall be construed to embrace every person to whom any estate or interest in real estate, shall be conveyed for a valuable consideration, and every assignee of a mortgage, or lease, or other conditional estate.

**Term "conveyance"**

§ 38. The term "conveyance," as used in this Chapter, shall be construed to embrace every instrument in writing, by which an estate, or interest in real estate is created, aliened, mortgaged or assigned; or by which the title to any real estate, may be affected in equity; except last wills and testaments, leases for a term not exceeding three years, and executory contracts for the sale or purchase of lands.

**Last section not to include powers of attorney; but they and contracts for land, may be proved and recorded.**

§ 39. The preceding section shall not be construed to extend to a letter of attorney, or other instrument containing a power to convey lands as agent or attorney for the owner of such lands; but every such letter or instrument, and every executory contract for the purchase of lands, when proved or acknowledged, in the manner prescribed in this Chapter, may be recorded in the clerk's office of any county, in which any real estate, to which such power or contract

lates, may be situated; and when so proved or acknowledged, and the record thereof when recorded, or the transcript of such record, may be read in evidence, in the same manner, and with the like effect, as a conveyance recorded in such county.

TITLE 1.  
Effect of record, &c.

§ 40. No letter or other instrument so recorded, shall be deemed to be revoked by any act of the party by whom it was executed, unless the instrument containing such revocation, be also recorded in the same office, in which the instrument containing the power was recorded.

Letters recorded how revoked.

§ 41. The recording of an assignment of a mortgage, shall not be deemed, in itself, notice of such assignment to a mortgagor, his heirs or personal representatives, so as to invalidate any payment made by them, or either of them, to the mortgagee.

Record of assignment of mortgage, not notice, &c.

§ 42. The provisions of this Chapter shall not extend to leases for life or lives, or for years, in the counties of Albany, Ulster, Sullivan, Herkimer, Dutchess, Columbia, Delaware and Schenectady.<sup>20</sup>

Certain leases in counties named, not affected.

§ 43. All the provisions of this Chapter, excepting the eighteenth section, conferring any powers, or imposing any duties, obligations or penalty upon a county clerk, shall extend and apply to the register of the city and county of New-York, in the same manner as if he were county clerk of the said county.

Register in New-York.

## CHAP. IV.

### Of Title to Personal Property, in certain cases.

TITLE 1.—Of limited partnerships.

TITLE 2.—Of promissory notes, and bills of exchange.

TITLE 3.—Of the interest of money.

TITLE 4.—Of accumulations of personal property, and of expectant estates in such property.

### TITLE I.

#### OF LIMITED PARTNERSHIPS.

- Sec. 1. For what purposes limited partnerships may be formed.
2. To consist of general and special partners; their respective liabilities.
3. General partners only, to transact business.
4. Certificate to be signed by all the partners; its contents.
5. Certificates before whom, and how to be acknowledged.
6. In what counties to be filed and recorded.
7. Affidavit also to be filed; its contents.
8. Partnership when deemed formed; effect of false certificate, &c.
9. Terms of partnership how to be published; effect of omission.
10. Affidavits of publication, where to be filed; effect as evidence.
11. Renewals, &c. of partnership, how to be made.
12. Alterations, deemed dissolution of partnership.

## TITLE I.



- Sec. 13. In what firm and names, business to be carried on.  
 14. Suits to be in names of general partners.  
 15. Special partner not to withdraw his capital; may receive interest, &c.  
 16. When to refund interest received by him.  
 17. Rights of special partners; restrictions upon them.  
 18. Liability of general partners to account.  
 19. Liability and punishment of partners guilty of fraud.  
 20. Assignments, &c. in certain cases, to give preference to creditors, void.  
 21. Certain assignments, &c. of property of general partners, void.  
 22. Certain acts of special partner to render him liable.  
 23. Special partners not to claim as creditors on insolvency of firm.  
 24. Dissolution by acts of partners, how made and published.

Purposes of limited partnerships.

SECTION 1. Limited partnerships for the transaction of any mercantile, mechanical, or manufacturing business, within this State, may be formed by two or more persons, upon the terms, with the rights and powers, and subject to the conditions and liabilities here prescribed; but the provisions of this Title shall not be construed to authorise any such partnership for the purpose of banking, or marine insurance.<sup>1</sup>

Liabilities of general and special partners.

§ 2. Such partnerships may consist of one or more persons, and shall be called general partners, and who shall be jointly and severally responsible as general partners now are by law; and of one or more persons who shall contribute, in actual cash payments, a specified sum as capital, to the common stock, who shall be called special partners, and who shall not be liable for the debts of the partnership, beyond the fund, so contributed by him or them to the capital.

Business, by whom to be transacted.

§ 3. The general partners, only, shall be authorised to transact the business and sign for the partnership, and to bind the same.

Certificate to be signed by all the partners: its contents.

§ 4. The persons desirous of forming such partnership, shall jointly and severally sign a certificate, which shall contain,

1. The name or firm under which such partnership is to be conducted:
2. The general nature of the business intended to be transacted;
3. The names of all the general and special partners interested therein, distinguishing which are general and which are special, and their respective places of residence:
4. The amount of capital which each special partner shall contribute to the common stock:
5. The period, at which the partnership is to commence, and the period, at which it will terminate.

To be acknowledged

§ 5. The certificate shall be acknowledged by the several persons signing the same, before the chancellor, a justice of the supreme court, a circuit judge, or a judge of the county courts; and such acknowledgment shall be made and certified in the same manner, as the acknowledgment of conveyances of land.

When to be filed and recorded.

§ 6. The certificate so acknowledged and certified, shall be filed in the office of the clerk of the county in which the principal place

(1) The different sections of this Title, except the tenth, and where otherwise noted, taken, with variations, from the act of 1822, p. 259.



business of the partnership shall be situated, and shall also be recorded by him at large, in a book to be kept for that purpose, open to public inspection. If the partnership shall have places of business situated in different counties, a transcript of the certificate, and of the acknowledgment thereof, duly certified by the clerk in whose office it shall be filed, under his official seal, shall be filed and recorded in like manner, in the office of the clerk of every such county.

TITLE I.

§ 7. At the time of filing the original certificate, with the evidence of the acknowledgment thereof, as before directed, an affidavit of one or more of the general partners shall also be filed in the same office, stating that the sums, specified in the certificate, to have been contributed by each of the special partners to the common stock, have been actually and in good faith paid in cash.

Affidavit to be filed.

§ 8. No such partnership shall be deemed to have been formed, until a certificate shall have been made, acknowledged, filed and recorded, nor until an affidavit shall have been filed, as above directed; and if any false statement be made in such certificate or affidavit, all the persons interested in such partnership, shall be liable for all the engagements thereof, as general partners.

When partnership deemed formed.

Consequence of false certificate, &c.

§ 9. The partners shall publish the terms of the partnership when registered, for at least six weeks immediately after such registry, in two newspapers, to be designated by the clerk of the county in which such registry shall be made, and to be published in the senate district in which their business shall be carried on; and if such publication be not made, the partnership shall be deemed general.

Terms of partnership to be published.

Effect of omission.

§ 10. Affidavits of the publication of such notice, by the printers of the newspapers, in which the same shall be published, may be filed with the clerk directing the same, and shall be evidence of the facts therein contained.

Proof of publication.

§ 11. Every renewal or continuance of such partnership, beyond the time originally fixed for its duration, shall be certified, acknowledged and recorded, and an affidavit of a general partner be made and filed, and notice be given, in the manner herein required for its original formation; and every such partnership which shall be otherwise renewed or continued, shall be deemed a general partnership.

Renewals, &c. of partnership.

§ 12. Every alteration which shall be made in the names of the partners, in the nature of the business, or in the capital or shares thereof, or in any other matter specified in the original certificate, shall be deemed a dissolution of the partnership; and every such partnership, which shall in any manner be carried on after any such alteration shall have been made, shall be deemed a general partnership, unless renewed as a special partnership, according to the provisions of the last section.

Dissolved by alterations.

When deemed general partnership.

§ 13. The business of the partnership shall be conducted under a firm, in which the names of the general partners, only, shall be insert-

Names composing firm.

**TITLE 1.** ed, without the addition of the word "company," or any other general term; and if the name of any special partner shall be used in such firm, with his privity, he shall be deemed a general partner.

Suits, in whose names

§ 14. Suits in relation to the business of the partnership, may be brought and conducted, by and against the general partners, in the same manner as if there were no special partners.

Capital of special partner not to be withdrawn.

§ 15. No part of the sum, which any special partner shall have contributed to the capital stock, shall be withdrawn by him, or paid or transferred to him, in the shape of dividends, profits or otherwise, at any time during the continuance of the partnership; but any partner may annually receive lawful interest on the sum so contributed to him, if the payment of such interest shall not reduce the original amount of such capital; and if, after the payment of such interest, any profits shall remain to be divided, he may also receive his portion of such profits.<sup>2</sup>

When he may receive interest.

When to refund interest.

§ 16. If it shall appear, that by the payment of interest or profit to any special partner, the original capital has been reduced, the partner receiving the same, shall be bound to restore the amount necessary to make good, his share of capital, with interest.<sup>2</sup>

Rights of special partners.

§ 17. A special partner may, from time to time, examine into the state and progress of the partnership concerns, and may advise as to their management; but he shall not transact any business on account of the partnership, nor be employed for that purpose as agent, attorney, or otherwise. If he shall interfere, contrary to these provisions, he shall be deemed a general partner.

Restrictions.

General partners to account.

§ 18. The general partners shall be liable to account to each other, and to the special partners, for their management of the concerns, both in law and equity, as other partners now are, by law.

Punishment of partners for fraud.

§ 19. Every partner who shall be guilty of any fraud in the affairs of the partnership, shall be liable civilly to the party injured, to the extent of his damage; and shall also be liable to an indictment for misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court by which he shall be tried.

Certain transfers void.

§ 20. Every sale, assignment, or transfer of any of the property effects of such partnership, made by such partnership when insolvent or in contemplation of insolvency, or after, or in contemplation of, the insolvency of any partner, with the intent of giving a preference to any creditor of such partnership or insolvent partner, over other creditors of such partnership; and every judgment confessed, lien created, or security given, by such partnership, under the like circumstances, and with the like intent, shall be void, as against the creditors of such partnership.

Certain judgments and securities void.

§ 21. Every such sale, assignment, or transfer of any of the property or effects of a general or special partner, made by such general or special partner, when insolvent, or in contemplation of insolvency, or after or in contemplation of the insolvency of the partnership, with the intent of giving to any creditor of his own, or of the partnership, a preference over creditors of the partnership; and every judgment confessed, lien created, or security given, by any such partner, under the like circumstances, and with the like intent, shall be void, as against the creditors of the partnership.

TITLE 2.  
Certain transfers, &c. of their property by general partners, void

§ 22. Every special partner, who shall violate any provision of the two last preceding sections, or who shall concur in, or assent to, any such violation by the partnership or by any individual partner, shall be liable as a general partner.

When special partner to become liable.

§ 23. In case of the insolvency or bankruptcy of the partnership, no special partner shall, under any circumstances, be allowed to claim as a creditor, until the claims of all the other creditors of the partnership shall be satisfied.

When not to claim as creditor.

§ 24. No dissolution of such partnership by the acts of the parties, shall take place previous to the time specified in the certificate of its formation, or in the certificate of its renewal, until a notice of such dissolution shall have been filed and recorded in the clerk's office in each week for four weeks, in a newspaper printed in each of the counties where the partnership may have places of business, and in the state paper.

Dissolution by acts of partners.

## TITLE II.

### OF PROMISSORY NOTES, AND BILLS OF EXCHANGE.

- Sec. 1. Effect of promissory notes payable to order or bearer.
2. Same effect given to notes signed by an agent.
  3. Word "person" in two last sections, to extend to corporations.
  4. When actions by payees, endorsees and holders to be maintained.
  5. Effect of notes payable to order of maker or of fictitious person.
  6. Acceptances of bills of exchange to be in writing and signed.
  7. If acceptance on separate paper, when, &c. to bind acceptor.
  8. When unconditional promise to accept, to be deemed acceptance.
  9. Refusal to accept on bill when required, deemed refusal to accept.
  10. Rights of drawers of bills on previous promise to accept, not affected.
  11. When destruction of bill or refusal to return it, deemed acceptance.
  12. When registry of inhabitants of New-York to be kept by clerk.
  13. Inhabitants to register names and places to which notices, &c. to be sent.
  14. Drafts, &c. may be presented, and notices, &c. served, at place designated.
  15. If registry not made, drafts, &c. may be presented to clerk.
  16. And notices, &c. may be served by leaving at post-offices.
  17. When preceding provisions not to operate.
  18. Rates of damages on protest for non-payment of bills of exchange.
  19. Damages in lieu of interest, &c. to time of notice of non-payment.
  20. If bill payable in money of United States, rate of exchange not to be regarded.
  21. If payable in foreign currency, amount due to depend on rate of exchange.

**TITLE 2**    **SEC. 22. Rate of damages on protest of bill for non-acceptance.**  
**23. Purchasers of bills only to recover damages hereon.**

Promissory notes payable to order or to bearer, negotiable.

§ 1. All notes in writing, made and signed by him shall promise to pay to any other person or order of any other person, or unto the bearer in mentioned, shall be due and payable, shall have the same effect, and be negotiable bills of exchange, according to the custom

Their effect.

Signature by agent.

§ 2. Every such note, signed by the agent general or special authority, shall bind such agent the same effect, and be negotiable, as above provided.

Corporations included.

§ 3. The word "person," in the two last sections shall be construed to extend to every corporation and its officers and agents in contracts.

Actions by payees, endorsees and holders.

§ 4. The payees and endorsees of every bill or their order, and the holders of every such bill may maintain actions for the sums of money due on the makers and endorsers of the same respectively in cases of inland bills of exchange, and notes.

Effect when payable to order of maker, &c.

§ 5. Such notes, made payable to the order or to the order of a fictitious person, shall, nevertheless, have the same effect, and be of the same value as if made by the maker and all persons having knowledge of the same by the bearer.

Acceptances of bills to be in writing, &c.

§ 6. No person within this state shall be deemed to have accepted a bill of exchange, unless his acceptance be in writing, and signed by himself, or his lawful agent.

Effect of acceptance on separate paper.

§ 7. If such acceptance be written on a separate paper, it shall not bind the acceptor, except in such acceptance shall have been shown, and the acceptor shall have received the bill for a valuable consideration.

Written promises to accept.

§ 8. An unconditional promise, in writing, if it is drawn, shall be deemed an actual acceptance by the person who, upon the faith thereof, shall have given a valuable consideration.

Refusal to accept on bill.

§ 9. Every holder of a bill, presenting the same for acceptance, may require that the acceptance be written on the bill; and if he refuse to comply with such request, shall be deemed to have refused to accept the bill, and the bill may be protested for non-acceptance.

Rights of drawers in certain cases, not to be affected.

§ 10. The four last sections shall not be construed to deprive any person, to whom a promise has been made, and who, on the faith of such promise, has given a valuable consideration, of his right to recover the same.

or negotiated the bill, to recover damages of the party making such promise, on his refusal to accept such bill.

TITLE 2

§ 11. Every person, upon whom a bill of exchange is drawn, and to whom the same is delivered for acceptance, who shall destroy such bill, or refuse, within twenty-four hours after such delivery, or within such other period as the holder may allow, to return the bill, accepted or non-accepted, to the holder, shall be deemed to have accepted the same.

Destroying bill or refusal to return it, when acceptance.

§ 12. Whenever the board of health of the city of New-York, or any other competent authority, shall, by public notice, designate any portion or district of the said city as being the seat of any infectious or contagious disease, and declare communication with such portion or district dangerous, or shall prohibit such communication, it shall be the duty of the clerk of the said city and county, during the continuance of such disease in such district, to provide and keep in his office a book, for the purpose of registering in alphabetical order, the names, firms, and places of business of any inhabitant of the city, who shall desire such registry to be made.<sup>4</sup>

In case of pestilence in New-York, registry of inhabitants to be kept by clerk.

§ 13. It shall be the duty of all persons and firms usually resident, or doing business, within such infected district, to register in the book so provided by the said clerk, their names or firms, with the place or places out of such infected district, but within the county of New-York, to which they may have removed the transaction of their business, or to which they may desire any notices to be sent or served, or any notes, drafts or bills, to be presented for acceptance or for payment. The sum of twenty-five cents may be claimed and received by the said clerk for every such registry; but the book in which the same shall be entered, shall be, at all times during office hours, open to public examination, free of all charges.<sup>4</sup>

Inhabitants to register their names, and places of business, &c.

Fees of clerk.

Register may be examined gratis.

§ 14. During the continuance of any such disease in such infected district, all drafts, notes and bills which by law are required to be presented for acceptance or for payment, may be presented for such purpose at the place so designated in such registry; and all notices of non-acceptance and of non-payment, of any note, draft or bill, or of protest, for such non-acceptance or non-payment, may be served by leaving the same, at the place so designated.<sup>4</sup>

Acceptances, &c. may be demanded.

Notices, &c. may be served at designated place.

§ 15. In case any person or firm, usually resident or doing business within such infected district, shall neglect to make and cause to be entered in the book so provided, the registry herein required, all notes, drafts or bills, which by law are required to be presented to such person or firm for acceptance or for payment, may be presented to the said clerk of the city and county of New-York, during the continuance of such disease, at any time during office hours, and demand of accept-

If registry, not made, drafts, &c. may be presented to clerk.

(4) Laws of 1826, p. 12, § 1 & 2.

## TITLE

ance or payment thereof, may be made of the said clerk, to the purpose and with the same effect, as if the same had been presented and acceptance or payment demanded, of such person or firm, at usual place of doing business.<sup>5</sup>

And notices, &c. may be left at post-office.

§ 16. In case of the omission to make the registry herein required, all notices of the non-acceptance or non-payment of any note, draft, bill, or of protest for such non-acceptance or non-payment, may be served on any person or firm, usually resident or doing business in such infected district, by leaving the same at the post-office in said city of New-York; which service shall be as valid and effective as if the notices had been served personally, on such person, or such firm, at his or their usual place of doing business.<sup>6</sup>

When pestilence deemed to have subsided.

§ 17. Whenever proclamation shall be made by the board of health or other proper authority of the city of New-York, that an infectious or contagious disease in any such infected district, has subsided, shall be deemed to have subsided, for all the purposes contemplated in this Title.<sup>5</sup>

Damages on non-payment of bills.

§ 18. The rate of damages to be allowed and paid upon the protest for non-payment of bills of exchange, drawn or negotiated within this state, shall, in the following cases, be as follows:

Bills on certain northern and western states.

1. If such bill shall have been drawn upon any person or persons at any place in either of the states of Maine, New-Hampshire, Vermont, Massachusetts, Rhode-Island, Connecticut, New-Jersey, Pennsylvania, Ohio, Delaware, Maryland or Virginia, or in the district of Columbia, three dollars upon the hundred, upon the principal sum specified in such bill:

On certain southern and western states.

2. If such bill shall have been drawn upon any person or persons at any place in either of the states of North-Carolina, South-Carolina, Georgia, Kentucky or Tennessee, five dollars upon the hundred, upon the principal sum specified in such bill:

On other states and places on this continent, &c.

3. If such bill be drawn upon any person or persons at any place in any other state or territory of the United States, or at any place on, or adjacent to, this continent and north of the equator, or any British or other foreign possessions in the West Indies, or where in the Western Atlantic ocean, ten dollars upon the hundred, upon the principal sum specified in such bill:<sup>7</sup>

Bills on Europe.

4. If such bill shall have been drawn upon any person or persons at any port or place in Europe, ten dollars upon the hundred, upon the principal sum specified in such bill.

Damages to be in lieu of certain interest, charges, &c.

§ 19. Such damages shall be in lieu of interest, charges of protest, and all other charges incurred previous to and at the time of notice of non-payment; but the holder of such bill shall be entitled to demand and recover lawful interest upon the aggregate amount

(5) Laws of 1826, p. 12, § 1 & 2. (6) Laws of 1828, p. 268. (7) Laws of 1819,

principal sum specified in such bill, and of the damages thereon, from the time at which notice of protest for non-payment, shall have been given, and payment of such principal sum, shall have been demanded.<sup>8</sup>

TITLE 3.

§ 20. If the contents of such bill be expressed in the money of account of the United States, the amount due thereon, and of the damages herein allowed for the non-payment thereof, shall be ascertained and determined, without any reference to the rate of exchange, existing between this state and the place on which such bill shall have been drawn, at the time of the demand of payment, or of notice of non-payment.<sup>8</sup>

No reference to rate of exchange when bill payable in money of U. States.

§ 21. If the contents of such bill be expressed in the money of account or currency of any foreign country, then the amount due, exclusive of the damages payable thereon, shall be ascertained and determined by the rate of exchange, or the value of such foreign currency, at the time of the demand of payment.<sup>8</sup>

Otherwise, when payable in foreign currency.

§ 22. Where a bill of exchange shall be protested for non-acceptance, the same rate of damages shall be allowed on the protest for non-acceptance, as provided in the four last sections; and shall be in lieu of interest, charges of protest, and all other charges incurred previous to, and at the time of giving notice of non-acceptance; but the holder shall be entitled to recover interest upon the aggregate amount of the principal sum specified in the bill and of the damages thereon, from the time at which notice of protest for non-acceptance shall have been given.<sup>9</sup>

Damages on non-acceptance of bills.

§ 23. The damages allowed by this Title, shall be recovered only by the holder of a bill who shall have purchased the same, or some interest therein, for a valuable consideration.<sup>9</sup>

Who to recover such damages.

### TITLE III.

#### OF THE INTEREST OF MONEY.

- Sec. 1. Rate of interest to continue at seven per cent.
2. Prohibition against taking greater interest.
3. Persons paying greater interest may recover it back in one year.
4. When superintendents and overseers of poor may recover excess.
5. Contracts, &c. for greater rate, void; except negotiable instruments in certain cases.
6. Offenders compelled to answer bills of discovery.
7. Discovery and return of excess, to exonerate from further penalty.
8. Party filing bill not to pay interest on sum loaned; nor to pay principal.
9. How months and days to be considered in casting interest.
10. Interest to be calculated by the year, when no time for that purpose is stated.

§ 1. The rate of interest upon the loan or forbearance of any money, goods or things in action, shall continue to be seven dollars upon one hundred dollars for one year, and after that rate for a greater or less sum, or for a longer or shorter time.<sup>10</sup>

Seven per cent. to be rate of interest.

(8) Laws of 1819, p. 34. (9) Act concerning the Revised Statutes, passed December 10, 1828, § 15, subdivision 30. (10) 1 R. L. p. 64, § 1 & 2.

## TITLE 3.

Greater interest prohibited.

§ 2. No person or corporation shall, directly or indirectly, take or receive in money, goods or things in action, or in any other way, a greater sum or greater value, for the loan or forbearance of any money, goods or things in action, than is above prescribed.<sup>11</sup>

Excess paid may be recovered back in one year.

§ 3. Every person who, for any such loan or forbearance, has paid or delivered any greater sum or value than is above allowed, may recover in an action against the person who shall have taken or received the same, or his personal representatives, the amount of the money so paid or delivered, above the rate aforesaid, if such action be brought within one year after such payment or delivery.<sup>11</sup>

When to be recovered by overseers of poor, &c.

§ 4. If such suit be not brought within the said one year, and prosecuted with effect, then the said sum may be sued for and recovered with costs, at any time within three years after the said one year, by any overseer of the poor of the town where such payment may have been made, or by any county superintendent of the poor of the county in which the payment may have been made.

Contracts for greater sum, void.

§ 5. All bonds, bills, notes, assurances, conveyances, all contracts or securities whatsoever, and all deposits of goods or things whatsoever, whereupon or whereby there shall be reserved or taken, or secured or agreed to be reserved or taken, any greater sum or greater value, for the loan or forbearance of any money, goods or things in action, than is above prescribed, shall be void; but this prohibition shall not extend to any bills of exchange or promissory notes payable to order or bearer, in the hands of an endorsee or holder, who shall have received the same in good faith, and for valuable consideration, and who had not, at the time of discounting such bill or note, or paying such consideration for the same, actual notice, that the bill or note, had been originally given, for a usurious consideration upon a usurious contract.<sup>11</sup>

Except negotiable bills and notes in hands of holder without notice.

Offenders compelled to discover.

§ 6. Every person offending against the provisions of this title shall be compelled to answer on oath any bill that may be exhibited against him in the court of chancery, for the discovery of any sum of money, goods or things in action so taken, accepted or received in violation of the foregoing provisions, or either of them.<sup>12</sup>

Discovery, &c. to bar further penalty.

§ 7. Every person who shall discover and repay or return the money, goods, or other thing so taken, accepted or received, or the value thereof, shall be acquitted and discharged from any other or further forfeiture, penalty or punishment, which he may have incurred by taking or receiving the money, goods or other thing so discovered and repaid, or returned, as aforesaid.<sup>12</sup>

Borrower filing bill not to pay interest.

§ 8. Whenever any borrower of any money, goods or things in action, shall file a bill in chancery for a discovery of the money, goods



or things in action, taken or received, in violation of either of the foregoing provisions, it shall not be necessary for him to pay, or offer to pay, any interest whatever on the sum or thing loaned; nor shall any court of equity, require or compel the payment or deposit, of the principal sum, or any part thereof, as a condition of granting relief, to the borrower, in any case of a usurious loan forbidden by this Chapter.

TITLE 4.  
rest on sum loaned.  
Nor to pay principal borrowed.

§ 9. For the purpose of calculating interest, a month shall be considered the twelfth part of a year, and as consisting of thirty days; and interest for any number of days, less than a month, shall be estimated by the proportion, which such number of days shall bear to thirty.

Months and days how to be reckoned.

§ 10. Whenever, in any statute, act, deed, written or verbal contract, or in any public or private instrument whatever, any certain rate of interest, is or shall be mentioned, and no period of time is stated for which such rate is to be calculated, interest shall be calculated at the rate mentioned, by the year, in the same manner as if the words "per annum" or "by the year," had been added to such rate.

How interest to be calculated in certain case.

**TITLE IV.**

**OF ACCUMULATIONS OF PERSONAL PROPERTY, AND OF EXPECTANT ESTATES IN SUCH PROPERTY.**

- Sec. 1. How long absolute ownership of personal property may be suspended.
- 2. Other limitations or future interests, &c. subject to first Chapter of this Part.
- 3. For what periods accumulations of interest, &c. may be directed.
- 4. All other directions for accumulation to be void; but in one case, void in part only.
- 5. When monies accumulated, &c. may be applied to support, &c. of minor.

§ 1. The absolute ownership of personal property shall not be suspended by any limitation or condition whatever, for a longer period than during the continuance and until the termination of not more than two lives in being at the date of the instrument containing such limitation or condition; or if such instrument be a will, for not more than two lives in being at the death of the testator.<sup>18</sup>

Suspension of ownership of personal property.

§ 2. In all other respects, limitations of future or contingent interests in personal property, shall be subject to the rules prescribed in the first Chapter of this Act, in relation to future estates in lands.

Certain other limitations.

§ 3. An accumulation of the interest of money, the produce of stock or other income or profits arising from personal property, may be directed by any instrument sufficient in law to pass such personal property as follows:

Accumulations of interest, &c.

- 1. If the accumulation be directed to commence from the date of the instrument, or from the death of the person executing the same,

For what period, when commencing

(18) Act concerning Revised Statutes, passed December 10, 1828, § 15, subdivision 31.

CHAP. 2 be constructive notice of the execution of such conveyance, to purchasers subsequent to such recording; but such proof, recording or deposit, shall not entitle such conveyance, or the record thereof, the transcript of such record, to be read in evidence.

Punishment for recording deeds, &c. without being proved, &c.

§ 34. No clerk of any city or county, shall record any conveyance by which any interest in real estate is, or may be in any way affected, unless the same shall have been duly acknowledged or proved; and any such officer offending herein, shall be adjudged guilty of a misdemeanor, and on conviction, shall be subject to fine and imprisonment.

Punishment of judges, clerks, &c. for malfeasance.

§ 35. Every judge, officer, or other person, within this state, authorized to take the acknowledgment or proof of any conveyance, every clerk of any county, or his deputy, who shall be guilty of a malfeasance, or fraudulent practice in the execution of the duties prescribed to them by law, in relation to the taking, or certifying, proof or acknowledgment, or the recording, or certifying, any record of any such conveyance, mortgage, or instrument in writing, or in relation to the cancelling of any mortgage, shall, upon conviction, be adjudged guilty of a misdemeanor, and be subject to punishment by fine and imprisonment, and shall also be liable in damages to the party injured.<sup>19</sup>

Term "real estate" defined.

§ 36. The term "real estate," as used in this Chapter, shall be construed as co-extensive in meaning with "lands, tenements and hereditaments," and as embracing all chattels real, except leases for a term not exceeding three years.

Term "purchaser."

§ 37. The term "purchaser," as used in this Chapter, shall be construed to embrace every person to whom any estate or interest in real estate, shall be conveyed for a valuable consideration, and every assignee of a mortgage, or lease, or other conditional estate.

Term "conveyance."

§ 38. The term "conveyance," as used in this Chapter, shall be construed to embrace every instrument in writing, by which any estate, or interest in real estate is created, aliened, mortgaged or signed; or by which the title to any real estate, may be affected in law or equity; except last wills and testaments, leases for a term not exceeding three years, and executory contracts for the sale or purchase of lands.

Last section not to include powers of attorney; but they and contracts for land, may be proved and recorded.

§ 39. The preceding section shall not be construed to extend to a letter of attorney, or other instrument containing a power to convey lands as agent or attorney for the owner of such lands; but every such letter or instrument, and every executory contract for the sale or purchase of lands, when proved or acknowledged, in the manner prescribed in this Chapter, may be recorded in the clerk's office of any county, in which any real estate, to which such power or contract

# APPENDIX.

## Acts of Congress now in force relative to the organization and discipline of the MILITIA.

( 1 )

*AN ACT more effectually to provide for the national defence by establishing an uniform militia throughout the United States. Approved May 8, 1792.*  
[Bioren & Duane's edition of Laws of the United States, Vol. 2, p. 293.]

§ 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That each and every free able bodied white male citizen of the respective states, resident therein, who is or shall be of the age of eighteen years and under the age of forty-five years, except as is herein after excepted, shall severally and respectively be enrolled in the militia by the captain, or commanding officer of the company within whose bounds such citizen shall reside, and that within twelve months after the passing of this act; and it shall, at all times hereafter, be the duty of every such captain or commanding officer of a company, to enrol every such citizen as aforesaid, and also those who shall, from time to time, arrive at the age of eighteen years, or being of the age of eighteen years, and under the age of forty-five years, except as before excepted, shall come to reside within his bounds, and shall, without delay, notify such citizen of the said enrolment, by a proper non-commissioned officer of the company, by whom such notice may be proved: That every citizen so enrolled and notified, shall, within six months thereafter, provide himself with a good musket, or firelock, a sufficient bayonet and belt, two spare flints and a knapsack, a pouch, with a box therein, to contain not less than twenty-four cartridges, suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball; or with a good rifle, knapsack, shot pouch, and powder horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder; and shall appear so armed, accoutred, and provided, when called out to exercise, or into service, except that when called out on company days to exercise only, he may appear without a knapsack: That the commissioned officers shall severally be armed with a sword or hanger, and espartoon; and that from and after five years from the passing of this act, all muskets for arming the militia, as herein required, shall be of bores sufficient for balls of the eighteenth part of a pound; and every citizen so enrolled, and providing himself with the arms, ammunition, and accoutrements required as aforesaid, shall hold the same exempted from all suits, distresses, executions, or sales for debt, or for the payment of taxes.

Age, &c. of persons subject to militia duty.

How to be armed and equipped.

[See part No. 3, § 2.]

§ 2. *And be it further enacted,* That the vice-president of the United States, the officers, judicial and executive, of the government of the United States; the members of both houses of congress, and their respective officers, all custom-house officers, with their clerks, all post officers and stage drivers, who are employed in the care and conveyance of the mail of the post-office of the United States, all ferry-men employed at any ferry on the post road, all inspectors of exports, all pilots, all mariners actually employed in the sea service of any citizen or merchant within the United States, and all persons who now are, or may hereafter be, exempted by the laws of the respective states, shall be, and are hereby exempted from militia duty, notwithstanding their being above the age of eighteen, and under the age of forty-five years.

Persons exempt from duty.

§ 3. *And be it further enacted,* That within one year after the passing of this act, the militia of the respective states shall be arranged into divisions.

Militia to be arranged into divisions.

brigades, regiments, battalions, and companies.

[See post No. 3, § 2; also Nos. 4 & 5.]

Militia how to be formed and organized into companies, &c.

Colors and music to be provided.

An adjutant-general in each state, and his duties.

sions, brigades, regiments, battalions, and companies, as the legislator of each state shall direct; and each division, brigade, and regiment, shall be numbered at the formation thereof, and a record made of such numbers in the adjutant-general's office, in the state; and when in the field or in service in the state, each division, brigade, and regiment, shall respectively take rank according to their numbers, reckoning the first lowest number, highest in rank: That if the same be convenient, each brigade shall consist of four regiments, each regiment of two battalions, each battalion of five companies, each company of sixty-four privates: That the said militia shall be officered by the respective states as follows: To each division, one major-general, and two aids-de-camp, with the rank of major; to each brigade, one brigadier-general, with one brigade-major, to serve also as brigade-major, with the rank of major; to each regiment, one lieutenant-colonel commandant; and to each battalion, one major; to each company, one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer, and one fifer or bugler: That there shall be a regimental staff, to consist of one adjutant, and one quartermaster to rank as lieutenants; one pay-master, one surgeon, and one surgeon's mate, one sergeant-major, one drum-major, and one fifer.

§ 4. *And be it further enacted,* That out of the militia enrolled as herein directed, there shall be formed for each battalion at least one company of grenadiers, light infantry, or riflemen; and that to each division there shall be at least one company of artillery, and one troop of horse: there shall be to each company of artillery, one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombardiers, one drummer, and one fifer; the officers to be armed with a sword or hanger, a fusée, bayonet and belt, with a cartridge box, to contain twelve cartridges, and each private or matros, shall furnish himself with all the equipment of a private in the infantry, until proper ordnance and field artillery is provided: there shall be to each troop of horse, one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier, and one trumpeter; the commissioned officers to furnish themselves with good horses, of at least fourteen hands and an half high, to be armed with a sword and pair of pistols, the holsters of which shall be covered with bear skin caps: each dragoon to furnish himself with a serviceable horse, at least fourteen hands and an half high, a good saddle, bridle, mail pillion, and valise, holsters, and a breast-plate and crupper pair of boots and spurs, a pair of pistols, a sabre, and a cartouch box to contain twelve cartridges for pistols: That each company of artillery, or troop of horse, shall be formed of volunteers from the militia, at the direction of the commander in chief of the state, not exceeding one company of each to a regiment, nor more in number than one eleventh part of the infantry, and shall be uniformly clothed in regimentals, to be furnished at their own expense, the color and fashion to be determined by the brigadier commanding the brigade to which they belong.

§ 5. *And be it further enacted,* That each battalion and regiment shall be provided with the state and regimental colors by the field officers; each company with a drum and fife, or bugle horn, by the commissioned officers of the company, in such manner as the legislatures of the respective states shall direct.

§ 6. *And be it further enacted,* That there shall be an adjutant-general appointed in each state, whose duty it shall be to distribute all orders from the commander in chief of the state to the several corps; to attend at all public reviews, when the commander in chief of the state shall review the militia, or any part thereof; to obey all orders from him, relating to the carrying into execution and perfecting the systems of military discipline established by this act; to furnish blank forms of different returns,

may be required, and to explain the principles on which they should be made; to receive from the several officers of the different corps, throughout the state, returns of the militia under their command, reporting the actual situation of their arms, accoutrements, and ammunition, their delinquencies, and every other thing which relates to the general advancement of good order and discipline: All which, the several officers of the divisions, brigades, regiments, and battalions, are hereby required to make, in the usual manner, so that the said adjutant-general may be duly furnished therewith: From all which returns, he shall make proper abstracts, and lay the same annually before the commander in chief of the state.

§ 8. *And be it further enacted*, That all commissioned officers shall take rank according to the date of their commissions; and when two of the same grade bear an equal date, then their rank to be determined by lot, to be drawn, by them, before the commanding officer of the brigade, regiment, battalion, company, or detachment.

Commissioned officers to take rank according to date, &c.

§ 10. *And be it further enacted*, That it shall be the duty of the brigade-inspector, to attend the regimental and battalion meetings of the militia, composing their several brigades, during the time of their being under arms, to inspect their arms, ammunition, and accoutrements, superintend their exercise and manœuvres, and introduce the system of military discipline before described, throughout the brigade, agreeable to law, and such orders as they shall from time to time receive from the commander in chief of the state; to make returns to the adjutant-general of the state, at least once in every year, of the militia of the brigade to which he belongs, reporting therein the actual situation of the arms, accoutrements, and ammunition of the several corps, and every other thing which in his judgment may relate to their government, and the general advancement of good order and military discipline; and the adjutant-general shall make a return of all the militia of the state, to the commander in chief of the said state, and a duplicate of the same to the president of the United States.

Duty of brigade-inspector

( 2 )

*AN ACT to provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions; and to repeal the act now in force for those purposes. Approved February 28, 1795. [2 Biorren & Duane, 479.]*

§ 4. *And be it further enacted*, That the militia employed in the service of the United States, shall be subject to the same rules and articles of war as the troops of the United States: and that no officer, non-commissioned officer, or private of the militia shall be compelled to serve more than three months, after his arrival at the place of rendezvous, in any one year, nor more than in due rotation with every other able bodied man of the same rank in the battalion to which he belongs.

Rules to which militia are to be subject when in actual service.

§ 6. *And be it further enacted*, That courts-martial for the trial of militia shall be composed of militia officers only.

Courts-martial

## ( 3 )

*AN ACT* in addition to an act, entitled, "An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States." Approved March 2, 1803. [3 Bioren & Duane, 531.]

Duties of adjutant-general.

§ 1. *Be it enacted by the senate and house of representatives of the United States of America in congress assembled,* That it shall be the duty of the adjutant-general of the militia, in each state, to make return of the militia of the state to which he belongs, with their arms, accoutrements, and ammunition, agreeably to the directions of the act to which this is an addition, to the President of the United States, annually on or before the first Monday in January, in each year : and it shall be the duty of the Secretary of War, from time to time, to give such directions to the adjutant-generals of the militia, as shall in his opinion, be necessary to produce an uniformity in the said returns, and he shall lay an abstract of the same before congress, on or before the first Monday of February annually.

Citizens enrolled to be armed.

Notice of enrolment.

§ 2. *And be it further enacted,* That every citizen duly enrolled in the militia, shall be constantly provided with arms, accoutrements and ammunition, agreeably to the direction of the said act, from and after he shall be duly notified of his enrolment ; and any notice or warning to the citizens so enrolled, to attend a company, battalion, or regimental muster or training, which shall be according to the laws of the state in which it is given for that purpose, shall be deemed a legal notice of his enrolment.

Additional officers.

§ 3. *And be it further enacted,* That, in addition to the officers provided for by the said act, there shall be to the militia of each state, one quarter-master-general, to each brigade, one quarter-master of brigade, and to each regiment, one chaplain.

## ( 4 )

*AN ACT* in further addition to an act, entitled, "An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States." Approved April 18, 1814. [4 Bioren & Duane, 701.]

Division-inspector and other officers created.

§ 1. *Be it enacted by the senate and house of representatives of the United States of America in congress assembled,* That in addition to the officers of the militia provided for by the act, entitled "An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States," approved May the eighth, one thousand seven hundred and ninety-two, and by an act in addition to the said recited act, approved March the second, one thousand eight hundred and three, there shall be to each division, one division-inspector, with the rank of lieutenant-colonel, and one division quarter-master, with the rank of major ; to each brigade one aid-de-camp, with the rank of captain ; and the quarter-masters of brigade, heretofore provided for by law, shall have the rank of captain. And it shall be incumbent on the said officers to do and perform all the duties which, by law and military principles, are attached to their offices respectively.

## ( 5 )

*AN ACT concerning field officers of the militia. Approved 20th April, 1816. [Laws of the United States, Vol. 6, published by Davis & Force, Washington, 1822, p. 77.]*

*Be it enacted by the senate and house of representatives of the United States of America in congress assembled, That from and after the first day of May next, instead of one lieutenant-colonel commandant to each regiment, and one major to each battalion, of the militia, as is provided by the act entitled, "An act more effectually to provide for the national defence by establishing an uniform militia throughout the United States," approved May the eighth, one thousand seven hundred and ninety-two; there shall be one colonel, one lieutenant-colonel, and one major to each regiment of the militia consisting of two battalions. Where there shall be only one battalion, it shall be commanded by a major: Provided, that nothing contained herein shall be construed to annul any commission in the militia which may be in force, as granted by authority of any state or territory, in pursuance of the act herein recited, and bearing date prior to the said first day of May next.*

Colonels,  
lieutenant-  
colonels and  
majors.

## ( 6 )

*AN ACT to establish an uniform mode of discipline and field exercise for the militia of the United States. Approved 12th May, 1820. [Laws of U. S. by Davis & Force, Vol. 6, p. 511.]*

§ 1. *Be it enacted by the senate and house of representatives of the United States of America in congress assembled, That the system of discipline and field exercise which is and shall be ordered to be observed by the regular army of the United States, in the different corps of infantry, artillery and riflemen shall also be observed by the militia in the exercises and discipline of the said corps, respectively, throughout the United States.*

Discipline.

## ( 7 )

*AN ACT to reduce and fix the military peace establishment of the United States. Approved 2d March, 1821. [Laws of U. S. by Davis & Force, Vol. 6, p. 553.]*

§ 14. *And be it further enacted, That the system of "general regulations for the army," compiled by Major-General Scott, shall be and the same is hereby approved and adopted for the government of the army of the United States, and of the militia when in the service of the United States.*

Scott's sys-  
tem adopted.





# INDEX

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[A more copious Index to the Four Parts of the Revised Statutes, will be found at the end of Vol. II.]

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